



# **Middle Tennessee State University Board of Trustees Audit and Compliance Committee**

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Wednesday, April 3, 2019  
10:00 a.m.

MEC Training Room – 2<sup>nd</sup> Floor  
Miller Education Center  
503 East Bell Street  
Murfreesboro, Tennessee 37132





**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

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Wednesday, April 3, 2019  
10:00 a.m.

**AGENDA**

Call to Order and Opening Remarks

Roll Call

Approval of Minutes (Action) .....Tab 1

Approval of Policy Revisions (Action) .....Tab 2

1. Policy 10 Ethics and Code of Conduct
2. Policy 12 Conflict of Interest

Report of Conflict of Interest Disclosures in 2018 (Information) .....Tab 3

Review of President’s Statement of Disclosure of Interests for 2019 (Information) .....Tab 4

Report on Compliance with Public Records Policy (Information) .....Tab 5

Results of External Reviews (Information) .....Tab 6

1. Comptroller of the Treasury Audit Report for FY 2018
2. NCAA Agreed Upon Procedures for FY 2018

Quarterly Report – Results of Internal Audit Reports (Information).....Tab 7

Closing Remarks

Adjourn Public Session

Non-Public Executive Session – Audits and Investigations

Adjourn Non-Public Executive Session





**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Action Item**

DATE: April 3, 2019

SUBJECT: [Approval of Minutes](#)

PRESENTER: Christine Karbowiak  
Committee Chair

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**BACKGROUND INFORMATION:**

The Audit and Compliance Committee met on November 13, 2018. Minutes from the meeting are provided for review and approval.



## **Minutes of the Audit and Compliance Committee**

The Audit and Compliance Committee met on Tuesday, November 13, 2018 in the MEC Training Room in the MTSU Miller Education Center located at 503 East Bell Street. Trustee Christine Karbowiak, Audit and Compliance Committee Chair called the meeting to order at 10:30 a.m. Board Secretary Heidi Zimmerman called the roll. A quorum was present with the following Committee members in attendance: Andy Adams, Tony Johnston, and Steve Smith. Trustees J. B. Baker, Pete Delay, Joey Jacobs, Peyton Tracy, and Pam Wright were also present. Also present were President Sidney A. McPhee; Brenda Burkhart, Chief Audit Executive; Alan Thomas, Vice President for Business and Finance; Mark Byrnes, University Provost; Joe Bales, Vice President for University Advancement; Andrew Oppmann, Vice President for Marketing and Communications; Bruce Petryshak, Vice President for Information Technology and Chief Information Officer; Deb Sells, Vice President for Student Affairs and Vice Provost for Enrollment and Academic Services; Heidi Zimmerman, University Counsel and Board Secretary; and Kim Edgar, Assistant to the President and Chief of Staff.

The first item on the agenda was approval of the minutes from the September 18, 2018 Audit and Compliance Committee meeting. The Motion to approve the September 18, 2018 minutes was made by Board Chairman Steve Smith and seconded by Trustee Andy Adams. A voice vote was taken and the Motion to approve the minutes from the September 18, 2018 Audit and Compliance Committee meeting carried.

The next item on the agenda was an informational follow-up item from a prior meeting regarding the Unmanned Aircraft Systems Policy and Process. Ms.

Burkhart explained this policy will be reviewed annually; use is restricted to University-sponsored events or activities directly related to teaching, research, or operational purposes; and the application review process was reduced from fourteen to five calendar days.

The next item on the agenda was a recommendation for approval of the promulgation of a rule regarding public records. Ms. Zimmerman explained that promulgating a rule specifically for this area is required by statute, T.C.A. §10-7-503(g). Additionally, revisions were made to related Policy 120 Public Records – Inspecting and Copying that would also require approval by the Board. Ms. Zimmerman instructed that a roll call vote on the rule by the Committee was needed for this meeting. The motion to recommend promulgation of the Public Records rule and revisions to the related Policy 120 Public Records – Inspecting and Copying was made by Board Chairman Steve Smith and seconded by Trustee Andy Adams. A roll call vote was taken and the motion was unanimous.

The next item on the agenda for information purposes was the results of the external review of the Tennessee Small Business Development Center presented by Ms. Burkhart. The review was performed by the U.S. Small Business Administration for the 2018 federal fiscal year and contained no findings.

The final item on the agenda for information presented by Ms. Burkhart was the Quarterly Report – Results of Internal Audit Reports. Two audit reports have been issued with no reportable issues noted.

The Committee adjourned its public session at 10:36 a.m. and entered non-public executive session at 10:38 a.m. to discuss audits and investigations. The non-public session adjourned at 10:51 a.m.



Respectfully submitted,

Audit and Compliance Committee





**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Action Item**

DATE: April 3, 2019

SUBJECT: [Approval of Policy Revisions](#)

PRESENTER: Gené Stephens  
Assistant Vice-President,  
Office of Compliance and Enterprise  
Risk Management

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**BACKGROUND INFORMATION:**

Presented for your approval are revisions to two University policies: Policy 10 – Ethics and Code of Conduct, and Policy 12 – Conflict of Interest.

The following describes the proposed revisions to both Policies.

Policy 10 – Ethics and Code of Conduct

The proposed revisions to Policy 10 (Policy) provides for the addition of an annual, mandatory Ethics Training for all employees, including student workers, where appropriate. In addition, a new section entitled “Healthy Workplace” was added to comply with the Healthy Workplace Act, T.C.A. § 50-1-50, which includes information about abusive conduct in the workplace. Greater clarity concerning reporting procedures for Ethics violations (outside

of abusive conduct, which is handled by Human Resources) also is included in the Policy as part of the revisions. Finally, inappropriate use or misuse of computer or information technology resources in violation of institutional policy was added to the section entitled, "Appropriate Use of University Resources," and more detailed information was included regarding the enforcement of this Policy.

#### Policy 12 – Conflict of Interest

The proposed revisions to Policy 12 (Policy) include the following: (1) a change in the responsible office and officer of the Policy from the Office of the University Counsel to the Office of Compliance and Enterprise Risk Management; (2) greater clarity concerning the process for new employees to disclose conflicts of interest; (3) revisions to the Conflict of Interest Checklist that Faculty are required to utilize for any of their authored works used in class; and (4) greater clarity and specificity regarding the process for conflicts of interest that primarily involve externally funded research, which will be referred to the Office of Research and Sponsored Programs and/or the Division of Academic Affairs for review pursuant to Policy 404 – Conflict of Interest for Externally Funded Projects.

Copies of the redlined and final, revised Policies 10 and 12 are attached for your review and approval.



## 10 Ethics and Code of Conduct

Approved by Board of Trustees

Effective Date: ~~June 5, 2017~~ \_\_\_\_\_, 2019

Responsible Division: Business and Finance

Responsible Office: Compliance and Enterprise Risk Management

Responsible Officer: Assistant Vice President for Compliance and Enterprise Risk Management

### I. Purpose

Middle Tennessee State University (MTSU or University) has a fiduciary responsibility to fulfill its overall mission in compliance with applicable policies, laws, regulations, rules, contracts, grants, and donor restrictions. As the University pursues its mission, it is committed to conducting its business in an ethical and law-abiding fashion; it will maintain a business culture that builds and promotes compliance consciousness.

The University is also committed to the core values of honesty, integrity, respect for diversity, engagement in the community, and commitment to non-violence. As part of the University's core values, employees are expected to promote the best interests of students; treat others with respect and civility; conduct University business with the highest level of ethical standards and integrity; utilize University resources in a manner that avoids waste, fraud, and abuse; and maintain a culturally rich and diverse environment in which to work and learn. This policy sets forth standards of conduct to support these core values and, in so doing, to protect the reputation, credibility, financial well-being, and legal obligations of the University.

### II. Scope

This policy applies to all employees of the University whether employed full-time, part-time, or temporary, and includes student workers where appropriate. ~~to include faculty and staff, whether employed full-time, part-time, or temporarily.~~

### III. Policy

All employees of the University are expected to maintain the highest standards of honesty and integrity in the performance of their employment duties. Accordingly, the following are general standards of conduct related to an employee's duty to the University.

- A. Employees must comply with [Policy 12 Conflict of Interest](#). Employees must refrain from using their position at the University, or any privileges obtained through employment at the University, in a manner that would unduly influence or result in a personal advantage to the employee or to the employee's immediate family members. Employees shall not have any personal interest, financial or otherwise, or directly or indirectly engage in a business transaction or professional activity that conflicts with the proper performance and responsibilities of their duties in the course of University employment, or that provides the appearance of such conflict. As provided for in [Policy 12 Conflict of Interest](#), employees must disclose information on the nature and extent of any financial interests in entities that do business with the University.
- B. Employees must comply with [Policy 71 Preventing and Reporting Fraud, Waste, and Abuse](#), and should become familiar with the reporting process.
- C. Employees must comply with [Policy 814 Outside Employment, Extra Compensation, and Dual Services Agreements](#) as concerns employment outside of, and in addition to, the employee's responsibilities at the University.
- D. Employees shall not accept any compensation for their service as University employees from any source other than the University, except as may be otherwise provided in other policies such as [Policy 814 Outside Employment, Extra Compensation, and Dual Services Agreements](#).
- E. An employee shall not disclose the confidential information of the University obtained during the course of his/her employment, except as required by law, statute, a valid subpoena, or request by a government entity for educational or investigatory purposes. An employee shall not use such information for his/her personal gain or benefit. Such confidential information includes, but is not limited to, student educational records under the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99); pharmacy records, treatment records, medical records, and other protected health information; University business and financial records; and University patents, licenses, inventions, research, or other University intellectual property.
- F. An employee shall not engage in conduct or actions that could provide the appearance or impression that improper influence over him/her could favorably affect the outcome of any University contract, award, rank, position, grant, or University-owned asset.
- G. Employees must comply with [Policy 816 Nepotism](#). An employee may not be in a direct supervisory line with his/her relative, nor may the employee participate in the process of review, recommendation, and/or decision making in any manner concerning hiring, opportunity, promotion, salary, retention, or termination of a relative.
- H. Professional Values. Employees should demonstrate the following behaviors in carrying out fiscal and other professional transactions ~~by~~:

1. According respect to self and others;
  2. Exhibiting commitment to both the University and organizational unit;
  3. Accepting responsibility; and
  4. Striving to enhance one's own capabilities, and provide the highest quality of performance and counsel.
- I. Employees shall, in the performance of their duties, be accountable for:
1. Knowing, supporting, and implementing the University's and functional area's operational plans;
  2. Exercising prudence and integrity in the management of resources in their custody and in all fiscal transactions in which they participate;
  3. Acting in a competent manner and in compliance with applicable policies, laws, regulations, and rules, contracts, grants, and donor restrictions;
  4. Not knowingly being a party to, or condoning, fiscal misconduct;
  5. Reporting fiscal misconduct as required by University policy;
  6. Not knowingly signing, subscribing to, or permitting the issuance of any financial statement or report that contains any material misstatement or that omits any material fact;
  7. Knowing and fulfilling the fiscal responsibilities set forth in University policy;
  8. Preparing or presenting financial information as required by University policies; and
  9. Protecting privileged or confidential information to which they have access by virtue of their position.

J. Healthy Workplace

1. Employees shall not, in the performance of their duties:

- a. Commit abusive conduct against another employee, subordinate, administrator, Board Trustee, or any persons doing business with, or in relation to, the University.

- b. Assist another employee in committing abusive conduct in the workplace.
  - c. Exhibit and/or commit workplace bullying against another employee.
  - d. Retaliate against any employee who reports incidences of abusive conduct in the workplace, and/or commit such acts of retaliation as defined in Section VII of [MTSU Policy 710 Violence on Campus](#).
- 2. "Abusive conduct" shall have the same meaning as defined within the Healthy Workplace Act, T.C.A. §50-1-502, as "any acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, such as:
  - a. Repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
  - b. Verbal, non-verbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or
  - c. The sabotage or undermining of an employee's work performance in the workplace.
- 3. "Abusive conduct" does not include:
  - a. A single act, unless such conduct is determined to be severe and egregious.
  - b. Disciplinary procedures in accordance with MTSU policies and procedures.
  - c. Routine coaching and counseling, including feedback about and/or correction of work performance.
  - d. Reasonable work assignments, including shift, post, and overtime assignments.
  - e. Individual differences in styles of personal expression.
  - f. Passionate, loud expression with no intent to harm others.
  - g. Differences of opinion on work-related concerns or matters.
  - h. The non-abusive exercise of managerial prerogative.
  - i. Other, similar non-abusive behavior.
  - j. Expressive activity protected by federal or state law.



4. Complaints regarding abusive conduct should be submitted to the Assistant Vice President for Human Resources, or his/her designee, and investigated pursuant to university policies and practices. Employees who violate this policy by engaging in abusive conduct will be subject to discipline, up to and including termination.

J.K. Ethics Training. Employees shall complete online Ethics training on an annual basis in furtherance of MTSU's community values, mission, and compliance program.

#### K.L. Appropriate Use of University Resources

University resources are an important part of the successful delivery of both academic and support services to MTSU's students and community constituents. All employees of the University are entrusted with the responsibility of preserving University resources, using those resources in a prudent manner for their designated purposes, and are entrusted with fiscal responsibility for their functional area of responsibility.

Accordingly, University resources should only be used in furtherance of the University's mission and operations. Inappropriate use of University resources includes, but is not limited to:

1. Faculty or staff utilizing students or other University employees to advance the faculty or staff member's personal, monetary, or political interests.
2. Granting external entities access to University services, information, technology, or resources for personal gain.

2-3. Inappropriate use or misuse of computer or information technology resources in violation of MTSU Policy 910 Information Technology Resources.

#### L.M. Fiscal Code of Conduct

1. All Banner Finance users, HRBanner users, procurement card (P-Card) users, and other specified employees shall demonstrate their awareness of, and compliance with, the University's Fiscal Code of Ethics through the acknowledgement process that follows.
2. Acknowledgment Process. The applicable Fiscal Code of Ethics statement must be signed, as monitored by the responsible party identified in parentheses:
  - a. By employees upon signing their letter of offer for employment with the University (the respective department or college);

- b. By individuals requesting access to the University's Finance System/MTSource as Finance System Users, prior to receiving such access (the appropriate University Finance System Access Security Coordinator);
  - c. By individuals requesting access to the University's HRBanner and by HRBanner users prior to receiving such access (the appropriate University HRBanner Access Security Coordinator);
  - d. By individuals asking for authority as a P-Card user, prior to receiving such authority (Procurement Services);
  - e. By all the principal investigators, project directors, and everyone associated with a grant, as may be required by the terms of the grant or relevant laws, regulations, or policies; and
  - f. By other employees as required by his/her Vice President.
3. If an individual fails to sign the statement as required, the respective Finance System, HRBanner, or P-Card access will not be provided. If the individual already has access, then the access will be withdrawn. The failure to sign will be reported to the relevant supervisor for appropriate action. Employees who fail to sign as required will be deemed to have failed to meet a condition of their appointment/employment.

#### IV. Enforcement

The Ethics Advisor for MTSU is the Assistant Vice President for Compliance and Enterprise Risk Management. All allegations of ethics violations should be forwarded to the Office of Compliance and Enterprise Risk Management at [carem@mtsu.edu](mailto:carem@mtsu.edu) for initial review and investigation.

Recommendations from the Office of Compliance and Enterprise Risk Management made after any ethics investigation may be reported to the Assistant Vice President for Human Resource Services; and/or to the Office of Audit and Consulting Services; and/or the Office of the University Counsel for an additional determination concerning disciplinary action. for the University. An investigation of the allegations will be conducted and recommendations made concerning such disciplinary action as may be appropriate.

Forms: none.

Revisions: ~~none~~ June 5, 2017 (original); \_\_\_\_\_, 2019.

References: Policies 12 Conflict of Interest; 71 Preventing and Reporting Fraud, Waste, and Abuse; [710 Violence on Campus](#); 814 Outside Employment, Extra Compensation, and Dual Services Agreements; 816 Nepotism; [910 Information Technology Resources](#); [Healthy Workplace Act, T.C.A. 50-1-501, et seq.](#)



## **10 Ethics and Code of Conduct**

**Approved by Board of Trustees**

**Effective Date:** \_\_\_\_\_, 2019

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**Responsible Office:** Compliance and Enterprise Risk Management

**Responsible Officer:** Assistant Vice President for Compliance and Enterprise Risk Management

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### **II. Scope**

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  9. Protecting privileged or confidential information to which they have access by virtue of their position.
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- a. Repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
  - b. Verbal, non-verbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or
  - c. The sabotage or undermining of an employee's work performance in the workplace.
3. "Abusive conduct" does not include:
- a. A single act, unless such conduct is determined to be severe and egregious.
  - b. Disciplinary procedures in accordance with MTSU policies and procedures.
  - c. Routine coaching and counseling, including feedback about and/or correction of work performance.
  - d. Reasonable work assignments, including shift, post, and overtime assignments.
  - e. Individual differences in styles of personal expression.
  - f. Passionate, loud expression with no intent to harm others.
  - g. Differences of opinion on work-related concerns or matters.
  - h. The non-abusive exercise of managerial prerogative.
  - i. Other, similar non-abusive behavior.
  - j. Expressive activity protected by federal or state law.

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- K. Ethics Training. Employees shall complete online Ethics training on an annual basis in furtherance of MTSU's community values, mission, and compliance program.
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1. Faculty or staff utilizing students or other University employees to advance the faculty or staff member's personal, monetary, or political interests.
2. Granting external entities access to University services, information, technology, or resources for personal gain.
3. Inappropriate use or misuse of computer or information technology resources in violation of [MTSU Policy 910 Information Technology Resources](#).

M. Fiscal Code of Conduct

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2. Acknowledgment Process. The applicable Fiscal Code of Ethics statement must be signed, as monitored by the responsible party identified in parentheses:
  - a. By employees upon signing their letter of offer for employment with the University (the respective department or college);



- b. By individuals requesting access to the University's Finance System/MTSource as Finance System Users, prior to receiving such access (the appropriate University Finance System Access Security Coordinator);
  - c. By individuals requesting access to the University's HRBanner and by HRBanner users prior to receiving such access (the appropriate University HRBanner Access Security Coordinator);
  - d. By individuals asking for authority as a P-Card user, prior to receiving such authority (Procurement Services);
  - e. By all the principal investigators, project directors, and everyone associated with a grant, as may be required by the terms of the grant or relevant laws, regulations, or policies; and
  - f. By other employees as required by his/her Vice President.
3. If an individual fails to sign the statement as required, the respective Finance System, HRBanner, or P-Card access will not be provided. If the individual already has access, then the access will be withdrawn. The failure to sign will be reported to the relevant supervisor for appropriate action. Employees who fail to sign as required will be deemed to have failed to meet a condition of their appointment/employment.

#### **IV. Enforcement**

The Ethics Advisor for MTSU is the Assistant Vice President for Compliance and Enterprise Risk Management. All allegations of ethics violations should be forwarded to the Office of Compliance and Enterprise Risk Management at [carem@mtsu.edu](mailto:carem@mtsu.edu) for initial review and investigation.

Recommendations from the Office of Compliance and Enterprise Risk Management made after any ethics investigation may be reported to the Assistant Vice President for Human Resource Services; the Office of Audit and Consulting Services; and/or the Office of the University Counsel for an additional determination concerning disciplinary action.

Forms: none.

Revisions: June 5, 2017 (original); \_\_\_\_\_, 2019.

References: Policies 12 Conflict of Interest; 71 Preventing and Reporting Fraud, Waste, and Abuse; 710 Violence on Campus; 814 Outside Employment, Extra Compensation, and Dual

Services Agreements; 816 Nepotism; 910 Information Technology Resources; Healthy Workplace Act, T.C.A. 50-1-501, et seq.



## 12 Conflict of Interest

Approved by Board of Trustees

Effective Date: ~~June 5, 2017~~ \_\_\_\_\_, 2019

Responsible Division: ~~President~~ Business and Finance

Responsible Office: ~~Compliance and Enterprise Risk Management Office of the University Counsel~~

Responsible Officer: ~~University Counsel~~ Assistant Vice President for Compliance and Enterprise Risk Management

### I. Purpose

All employees of Middle Tennessee State University (MTSU or University) serve the interests of the State of Tennessee and its citizens, and have a duty to avoid activities and situations that, either actually or potentially, put personal interests ahead of the professional obligations they owe to the University. All employees serve a public interest role and thus have a clear obligation to conduct all affairs of the University in a manner consistent with this concept.

This policy is intended to (1) define the general principles that guide the actions of MTSU employees, (2) offer illustrations of activities that potentially constitute a conflict of interest, (3) make employees aware of disclosure requirements related to conflicts of interest, (4) provide a means of managing and resolving conflicts of interest, and describe the process by which those disclosures shall be evaluated and decisions rendered, and (5) describe the appeals process regarding such decisions.

### II. Scope

This policy applies to all persons employed by MTSU (either as full-time, part-time, or temporary employees) ~~by MTSU~~.

### III. Definitions

- A. Conflict of Interest. A conflict of interest occurs when the personal interests, financial or otherwise, of a person who owes a duty to MTSU actually, or potentially, diverge from the person's professional obligations to, and the best interests of, MTSU. For the purposes of this policy, a conflict of interest with a vendor or contractor also creates a conflict of interest with any sub-vendor or sub-contractor of the vendor or contractor.

- B. Conflict of Commitment. A conflict of commitment occurs when the personal or other non-University related activities of an employee impair the ability of that employee to meet his/her commitments of time and energy to the University.
- C. Family Member. The spouse and children (both dependent and non-dependent) of a person covered by this policy.

#### IV. Pertinent Laws

The following lists are intended to indicate sources of information that may provide additional guidance regarding conflict of interest situations. This policy is intended to be consistent with all pertinent federal and state laws, regulations, and policies, as well as with MTSU policies. To the extent that conflicts arise, federal and state laws, regulations, and policies shall take precedence. The lists are not intended to be exhaustive, and additional laws, regulations, and policies may be implicated in a given conflict of interest situation.

- A. Federal regulations related to research. For information and guidance related to federal funded research and applicable federal regulations, see [Policy 404 Conflict of Interest for Externally Funded Projects](#).
- B. Other federal agencies (i.e., the Veterans' Administration or the Food and Drug Administration) may require, as a condition to a contract, disclosure and management of conflicts of interest (see, for example, Veterans' Administration Acquisition Regulation 852.209-70).
- C. Tennessee state laws. Various state statutes are pertinent to the issue of conflicts of interest at MTSU including, but not limited to, the statutes listed below. It is significant to note that violation of some of these statutes may lead to criminal penalties.
  1. T.C.A. § 8-50-501, Disclosure statement of conflicts of interest by the President of MTSU.
  2. T.C.A. § 12-2-208, Purchase by officer unlawful penalty for violation.
  3. T.C.A. §§ 12-2-415 – 417, State surplus property disposition.
  4. T.C.A. § 12-4-106, Prohibition against receiving rebates, gifts, money, or anything of value – Conflict of interest.
  5. T.C.A. §§ 12-4-101 – 104, Personal interest of officers or employees prohibited; bidding prohibited.

**V. Other Relevant Policies.** The following non-exclusive list of policies and procedures deal with issues that implicate conflict of interest situations:

- A. Policies and procedures related to purchasing, including, but not limited to:
  - 1. [Policy 632 Purchasing Card \(P-Card\) Program](#)
  - 2. [Policy 637 Cash Purchases and Petty Cash Funds](#)
- B. Policies and procedures related to disposition of State property, including, but not limited to:
  - 1. [Policy 140 Intellectual Property](#)
  - 2. [Policy 404 Conflict of Interest for Externally Funded Projects](#)
  - 3. [Policy 685 Disposal of Surplus Property](#)
  - 4. [Policy 814 Outside Employment, Extra Compensation, and Dual Services Agreements](#)
  - 5. [Policy 816 Nepotism](#)

## VI. Conflict of Interest

- A. Employees should avoid situations where the self-interests of the employee diverge from the best interests of the University (conflicts of interests).
- B. The mere existence of either a potential or actual conflict of interest does not mean that such conflict must necessarily be eliminated. All actual and potential conflicts of interest must be disclosed and evaluated by the Conflict ~~of Interest s~~ Review Committee.
- C. In the following situations and activities, there is at least the appearance, and possibly the actuality, of an employee allowing his/her personal interests, and not the best interests of MTSU, to affect that employee's judgment. This list is illustrative rather than exhaustive.
  - 1. Self-dealing. Situations in which an employee can appear to influence, or actually influence, a University-related decision from which that person, or a member of that person's family, stands to realize a personal financial benefit is self-dealing and a conflict of interest. Examples of self-dealing activities are numerous and include [, but are not limited to,](#) those listed below.
    - a. Purchase of State-owned property by an employee, absent fair and open bidding. It is unlawful for any State employee to purchase surplus State-owned property, absent a fair and open bidding process (T.C.A. §§ 12-2-208 and 12-2-412; [Policy 685 Disposal of Surplus Property.](#))

- b. University purchases from businesses in which an employee has a financial interest (T.C.A. § 12-4-103). Employees are prohibited from bidding on, selling, or offering to sell, any merchandise, equipment, material, or similar commodity to the State of Tennessee during their employment, or for six (6) months thereafter, or to have any interest in the selling of the same to the state. Violation of this provision is considered a Class E felony.
  - c. Certain bids on State contracts (T.C.A. § 12-4-106(b)). It is a conflict of interest for any employee, or any company with whom such employee is an officer, director, or equity owner with more than one percent (1%) interest, to bid on any public contract for products or services for the University, if that person or his/her spouse, dependent children, stepchildren, or relatives related by blood or marriage is responsible for approving such contract for the University.
  - d. Use of educational materials from which a faculty member derives financial benefit. Any faculty member who wishes to use in his/her teaching activities educational materials (i.e., a textbook) that he/she has authored, or in which he/she otherwise stands to benefit financially from such use, has a conflict of interest that must be managed. The faculty member shall make a conflict of interest disclosure to the faculty member's Department Chair. The disclosure must adequately indicate the facts and circumstances that would support the particular textbook being used. Whether the use of such materials shall be permitted shall be evaluated by the Chair, along with the department textbook committee. Such evaluation shall include consideration of suitable substitute materials and ensure that the needs of students are best served by use of the materials in which the faculty member has an interest.
2. Acceptance of gifts, gratuities, or favors.
- a. No employee shall knowingly solicit or accept, directly or indirectly, on behalf of himself/herself, or any member of the employee's household, for personal use or consumption, any gift, including, but not limited to, any gratuity, service, favor, food, entertainment, lodging, transportation, loan, loan guarantee, or any other thing of monetary value from any person or entity that:
    - (1) Has, or is seeking to obtain, contractual or other business or financial relations with the institution in which the individual is employed; or
    - (2) Has interests that may be substantially affected by the performance or nonperformance of the employees.
  - b. Exceptions. The prohibition on accepting gifts in this section does not apply to:

- (1) A gift with a non-business purpose, motivated by a close personal friendship and not by the employee's position with the University;
  - (2) Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;
  - (3) Sample merchandise, promotional items, and appreciation tokens, if they are routinely given to customers, suppliers, or potential customers or suppliers in the ordinary course of business, including items distributed at tradeshow and professional meetings where vendors display and promote their services and products;
  - (4) Food, refreshments, foodstuffs, entertainment, or beverages provided as part of a meal or other event, including tradeshow and professional meetings, if the value of such items does not exceed fifty dollars (\$50.00) per occasion; provided that the value of the gift may not be reduced below the monetary limit by dividing the cost of the gift among two (2) or more persons or entities. The measure is the value of the gift received by each individual person;
  - (5) There may be circumstances where refusal or reimbursement of a gift (such as a lunch or dinner) may be awkward and contrary to the larger interests of the University. In such circumstances, the employee is to use his/her best judgment, and disclose the gift including a description, estimated value, the person or entity providing the gift, and any explanation necessary within fourteen (14) days to his/her immediate supervisor;
  - (6) Food, refreshments, meals, foodstuffs, entertainment, beverages, or intrastate travel expenses that are provided in connection with an event where the employee is a speaker or part of a panel discussion at a scheduled meeting of an established or recognized membership organization which has regular meetings;
  - (7) Participation in University or Foundation fundraising and public relations activities, i.e. golf tournaments and banquets, where persons or entities provide sponsorships; or
  - (8) Loans from established financial institutions, made in the ordinary course of business, on usual and customary terms, so long as there are no guarantees or collateral provided by any person from whom the employee would normally be prohibited from accepting a gift.
3. Inappropriate use of students or support staff. Employees shall ensure that the activities of students or support staff are not exploited for the benefit of any non-

- University related activity of the faculty or staff member. Prior to assigning any such non-MTSU related task or a task not directly related to the employee's job duties (which is more than incidental or de minimis in nature) to a student or member of the support staff, an employee shall disclose such proposed activities and obtain approval through his/her supervisor and the Office of Human Resource Services. Under no circumstances shall students and support staff be used to perform personal activities for the faculty or staff member while the student's or support staff's time is being paid by the University.
4. Inappropriate use of State or University owned resources. Employees may not make significant use of State or University facilities, equipment, materials, or other resources, not otherwise available to the public, in the course of activities that are not related to MTSU, without prior disclosure and approval. Employees making more than incidental or de minimis use of University owned resources must reimburse MTSU for such use at a fair market rental rate to be established by the Business Office at the time of the request or discovery of such use.
  5. Failure to disclose intellectual property. [Policy 140 Intellectual Property](#) governs the rights and responsibilities, which persons affiliated with MTSU have, regarding intellectual property developed during the term of their affiliation with MTSU. Among the responsibilities enumerated in that policy is disclosure of inventions and those copyrightable works that they have jointly or solely developed or created during their affiliation with MTSU. The author/inventor has the responsibility to provide disclosures pursuant to both [Policy 140 Intellectual Property](#) and this policy.

## VII. Conflict of Interest Disclosure Requirements

- A. Allowing a conflict of interest to exist without being addressed in an appropriate manner is a serious violation of an employee's duty to the University and can be a violation of state or federal law. Some conflicts of interests are even punishable as criminal offenses under state law.
- B. Unless a different procedure is specified by state statute or in this policy:
  1. New employees ~~must read this policy and sign an acknowledgement that they have done so. The acknowledgement shall be maintained in the employee's personnel file. will be provided a copy of this policy upon employment. If upon reading the policy, the employee believes a conflict of interest exists they should complete the disclosure form and submit it to University Counsel within 30 days of employment.~~
  2. All employees will annually receive a [Conflict of Interest Disclosure Statement](#). Employees must disclose the facts and circumstances surrounding a situation that might involve a conflict of interest, to include the nature and extent of their financial interest(s) in any entity that does business with MTSU.



3. Employees must submit the completed [Conflict of Interest Disclosure Statement](#) by the prescribed deadline, if they are, or believe they might be, in a conflict of interest position.
  4. At any time throughout the year, if an employee feels that a potential conflict of interest has developed since the annual report, the employee is responsible for completing and submitting an updated [Conflict of Interest Disclosure Statement](#).
  5. Faculty utilizing their authored books or published works in a course(s) they teach, must additionally complete the Conflict of Interest Checklist.
- C. Investigators seeking federal funding must make written disclosures as indicated in [Policy 404 Conflict of Interest for Externally Funded Projects](#) and related procedures. Disclosure of financial interests made pursuant to [Policy 404 Conflict of Interest for Externally Funded Projects](#) and related procedures notwithstanding, such disclosure does not eliminate the responsibility for making disclosures under this policy when specific conflict of interest situations arise.
- D. Special disclosure requirements for the President
1. The President is required to file a financial disclosure statement within one (1) month of his/her initial appointment and annually thereafter in January. Disclosure of financial interests made pursuant to this provision notwithstanding, such disclosure does not eliminate the responsibility for making disclosures when specific conflict of interest situations arise. In such cases, the President must make an appropriate disclosure to the Office of the University Counsel.
  2. The President's disclosure shall be in the form prescribed by, and submitted as directed by, the Tennessee Ethics Commission.
  3. Presidents Emeriti must submit any potential conflict of interest to the Office of the University Counsel.
- E. Review of Disclosures
1. The President's disclosure shall be evaluated by the Board of Trustees or a duly appointed committee thereof.
  2. Employee made disclosures shall be evaluated by MTSU's Conflict of Interest Committee.
- F. Conflict of Interest Committee

1. The Conflict of Interest Committee (Committee) is an advisory committee and resides under the President's Office. The primary members of the Committee shall be representatives from the Offices of the University Counsel, Internal Audit and Consulting Services, Compliance and Enterprise Risk Management, and Business and Finance. Other areas of the University, such as Human Resource Services, Academic Affairs, Student Affairs, etc., may be brought in to assist the Committee to provide additional insight and expertise, depending on the nature of the disclosure submitted.
2. Consistent with this policy, the Committee will evaluate conflict of interest disclosures and situations, determine whether a conflict of interest exists, and advise on what actions may be required to manage, reduce, or eliminate an employee's conflict of interest.
3. If the Committee determines that an employee has a conflict of interest, the employee shall receive notice of the Committee's evaluation and be given an opportunity to appear before that Committee before the Committee forwards its decision to the President.
- ~~3.4.~~ If the Committee determines that an employee has a conflict of interest that primarily involves externally funded research, research activities, or ethical conduct in research, the employee's conflict of interest will be referred to the Office of Research Services and/or to the Division of Academic Affairs for review pursuant to Policy 404 Conflict of Interest for Externally Funded Projects.
- ~~4.5.~~ Any disclosure that indicates an actual violation of law shall be forwarded to the President along with the Committee's findings.
- ~~5.6.~~ The President will determine the appropriate action(s) to be taken.
- ~~6.7.~~ For any conflict that is not a violation of federal or state law, the Committee is permitted to make a determination that the conflict is de minimis and is permitted to continue; to place restrictions on the employee to manage the conflict; or, to instruct the employee to eliminate the conflict. The Committee will provide the employee its decision in writing.

#### G. Appeal

1. An employee may file an appeal with the President within ten (10) business days, absent good cause, of receipt of the Committee's decision.
2. The President shall notify the employee in writing of his/her decision within ten (10) business days, absent good cause.

3. The President's decision shall be final and binding.

#### H. Sanctions

1. Failure to follow any law or University policy relating to conflicts of interest, including failure to observe restrictions imposed as a result of review of a conflict of interest disclosure, or a knowing failure to disclose a conflict of interest, may result in disciplinary action, including, but not limited to, termination.
2. The Committee will refer violations to the appropriate Vice President or Provost for appropriate action, if any.

### VIII. Conflict of Commitment

The primary work related commitment of an employee's time and energy should be to the University. Employees should avoid external commitments that significantly interfere with his/her performance of, or impair his/her independence of, judgment in the performance of the employee's duties to MTSU. See [Policy 814 Outside Employment, Extra Compensation, and Dual Services Agreements](#). Disclosures of conflicts of commitment shall be made as required in that policy and be evaluated as indicated in that policy.

### IX. Interpretation

The President or designee has the final authority to interpret the terms of this policy.

Forms:

[Employee Conflict of Interest Disclosure Statement](#)

[Conflict of Interest Checklist](#)

Revisions: June 5, 2017 (original policy); \_\_\_\_\_, 2019.~~none.~~

References: T.C.A. §§ 8-50-501; 12-2-208; 12-2-412; 12-2-415 – 417; 12-4-106; 12-4-101 – 104; Policies 140 Intellectual Property; 404 Conflict of Interest for Externally Funded Projects; 632 Purchasing Card (P-Card) Program; 637 Cash Purchases and Petty Cash Funds; 685 Disposal of Surplus Property; 814 Outside Employment, Extra Compensation, and Dual Services Agreements; 816 Nepotism.

**Middle Tennessee State University  
Employee Conflict of Interest Disclosure Statement  
Corresponding Policy 12 Conflict of Interest**

**For HR Use Only**

Faculty  
 Dean/Chair  
 Vice-Provost  
 Executive/VP  
 Staff

**INSTRUCTIONS**

**If you have a conflict of interest, please complete this Employee Conflict of Interest Disclosure Statement (Disclosure Statement) by entering the appropriate information below.**

**If you do NOT have a conflict of interest, you do NOT need to complete this Disclosure Statement.**

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**DEFINITIONS**

The following definitions apply to this Conflict of Interest Disclosure Statement in compliance with MTSU Policy 12 Conflict of Interest.

1. **Conflict of Interest.** Occurs when the personal interests, financial or otherwise, of a person who owes a duty to MTSU actually, or potentially, diverge from the person's professional obligations to, and the best interests of, MTSU. For the purposes of this policy, a conflict of interest with a vendor or contractor also creates a conflict of interest with any sub-vendor or sub-contractor of the vendor or contractor.
  
2. **Conflict of Commitment.** A conflict of commitment occurs when the personal or other non-University related activities of an employee impair the ability of that employee to meet his/her commitments of time and energy to the University.

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**SECTIONS**

- I. Financial Interests**
- II. Family Relationships**
- III. Business Relationships**
- IV. Gifts**
- V. Financial Transactions**
- VI. Lobbying**
- VII. Other Conflicts of Interest**

1. Name of Employee Submitting the Statement: \_\_\_\_\_

2. Title or Position with MTSU: \_\_\_\_\_

3. Email: \_\_\_\_\_ Date: \_\_\_\_\_

4. The following statement is submitted in accordance with the Middle Tennessee State University (MTSU) Employee Conflict of Interest Policy:

### I. Financial Interests

Please review the selections below and check all that apply. For financial interests for which an employee has a financial interest conflict, please also complete the information in the table provided.

I have a single-transaction financial interest in a specific business, contract, vendor, subcontractor, or purchase connected to MTSU.

I, or a member of my family (spouse, dependent, extended relative), holds a financial interest in one or more businesses, contracts, vendors, or subcontractors connected with MTSU, or from whom MTSU purchases products or services.

Name of company or business for which the MTSU employee has an ownership interest	Type of goods or services offered by the company and purchased by MTSU	Purchase amount or value (includes goods, services, or contracts)

### II. Family Relationship

At any time during the preceding twelve (12) months, was any board trustee or executive officer of MTSU a family member of yours?

Yes (~~please explain or describe below~~ If 'Yes', please attach an explanation with any supporting documentation)

No

Name of trustee or executive officer	Position held by executive officer, or if a board trustee, indicate by stating "trustee"	Specific family relationship


EMPLOYEE NAME: \_\_\_\_\_

**III. Business Relationships**

At any time during the preceding twelve (12) months, did you, or any member of your family, have a business relationship with any executive officer or board trustee of MTSU?

- Yes (~~please explain or describe below~~ If 'Yes', please attach an explanation with any supporting documentation)
- No

Name of trustee or executive officer	Position held by executive officer, or if a board trustee, indicate by stating "trustee"	Specific business relationship

**IV. Gifts**

Cash

At any time during the preceding twelve (12) months, did you, or any member of your family, provide or receive a gift of cash of any value to or from an executive officer or board trustee of MTSU?

- Yes (~~please explain or describe below~~ If 'Yes', please attach an explanation with any supporting documentation)
- No

Name of trustee or executive officer	Position held by executive officer, or if a board trustee, indicate by stating "trustee"	Cash amount

Non-Cash

At any time during the preceding twelve (12) months, did you, or any member of your family, provide or receive a non-cash gift of more than \$50 to or from an executive officer or board trustee of MTSU?

- Yes (If 'Yes', please attach an explanation with any supporting documentation)
- No

Name of trustee or executive officer	Position held by executive officer, or if a board trustee, indicate by stating "trustee"	Gift description

**V. Financial Transactions**

During the preceding twelve (12) months, did you, or any family member, provide or receive a loan, grant, lease, license, commercial contract, investment agreement, prize, scholarship, consulting contract, or fellowship to or from an executive officer, board trustee, or management member of MTSU in connection with the University's regular business operations?

- Yes (If 'Yes', please attach an explanation with any supporting documentation)
- No

Name of trustee or executive officer	Position held by executive officer, management member, or if board trustee, indicate by stating "trustee"	Type of financial transaction

**VI. Lobbying**

During the preceding twelve (12) months, did you, or any organization or firm with whom you were affiliated or hired, engage in compensated, registered legislative lobbying related to any educational issue?

- Yes (~~please explain or describe below~~ If 'Yes', please attach an explanation with any supporting documentation)





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Signature of Employee:

Date:

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## 12 Conflict of Interest

**Approved by Board of Trustees**

**Effective Date:** \_\_\_\_\_, 2019

**Responsible Division:** Business and Finance

**Responsible Office:** Compliance and Enterprise Risk Management

**Responsible Officer:** Assistant Vice President for Compliance and Enterprise Risk Management

### I. Purpose

All employees of Middle Tennessee State University (MTSU or University) serve the interests of the State of Tennessee and its citizens, and have a duty to avoid activities and situations that, either actually or potentially, put personal interests ahead of the professional obligations they owe to the University. All employees serve a public interest role and thus have a clear obligation to conduct all affairs of the University in a manner consistent with this concept.

This policy is intended to (1) define the general principles that guide the actions of MTSU employees, (2) offer illustrations of activities that potentially constitute a conflict of interest, (3) make employees aware of disclosure requirements related to conflicts of interest, (4) provide a means of managing and resolving conflicts of interest, and describe the process by which those disclosures shall be evaluated and decisions rendered, and (5) describe the appeals process regarding such decisions.

### II. Scope

This policy applies to all persons employed by MTSU either as full-time, part-time, or temporary employees.

### III. Definitions

- A. **Conflict of Interest.** A conflict of interest occurs when the personal interests, financial or otherwise, of a person who owes a duty to MTSU actually, or potentially, diverge from the person's professional obligations to, and the best interests of, MTSU. For the purposes of this policy, a conflict of interest with a vendor or contractor also creates a conflict of interest with any sub-vendor or sub-contractor of the vendor or contractor.

- B. Conflict of Commitment. A conflict of commitment occurs when the personal or other non-University related activities of an employee impair the ability of that employee to meet his/her commitments of time and energy to the University.
- C. Family Member. The spouse and children (both dependent and non-dependent) of a person covered by this policy.

#### IV. Pertinent Laws

The following lists are intended to indicate sources of information that may provide additional guidance regarding conflict of interest situations. This policy is intended to be consistent with all pertinent federal and state laws, regulations, and policies, as well as with MTSU policies. To the extent that conflicts arise, federal and state laws, regulations, and policies shall take precedence. The lists are not intended to be exhaustive, and additional laws, regulations, and policies may be implicated in a given conflict of interest situation.

- A. Federal regulations related to research. For information and guidance related to federal funded research and applicable federal regulations, see [Policy 404 Conflict of Interest for Externally Funded Projects](#).
- B. Other federal agencies (i.e., the Veterans' Administration or the Food and Drug Administration) may require, as a condition to a contract, disclosure and management of conflicts of interest (see, for example, Veterans' Administration Acquisition Regulation 852.209-70).
- C. Tennessee state laws. Various state statutes are pertinent to the issue of conflicts of interest at MTSU including, but not limited to, the statutes listed below. It is significant to note that violation of some of these statutes may lead to criminal penalties.
  1. T.C.A. § 8-50-501, Disclosure statement of conflicts of interest by the President of MTSU.
  2. T.C.A. § 12-2-208, Purchase by officer unlawful penalty for violation.
  3. T.C.A. §§ 12-2-415 – 417, State surplus property disposition.
  4. T.C.A. § 12-4-106, Prohibition against receiving rebates, gifts, money, or anything of value – Conflict of interest.
  5. T.C.A. §§ 12-4-101 – 104, Personal interest of officers or employees prohibited; bidding prohibited.

**V. Other Relevant Policies.** The following non-exclusive list of policies and procedures deal with issues that implicate conflict of interest situations:

- A. Policies and procedures related to purchasing, including, but not limited to:
  - 1. [Policy 632 Purchasing Card \(P-Card\) Program](#)
  - 2. [Policy 637 Cash Purchases and Petty Cash Funds](#)
- B. Policies and procedures related to disposition of State property, including, but not limited to:
  - 1. [Policy 140 Intellectual Property](#)
  - 2. [Policy 404 Conflict of Interest for Externally Funded Projects](#)
  - 3. [Policy 685 Disposal of Surplus Property](#)
  - 4. [Policy 814 Outside Employment, Extra Compensation, and Dual Services Agreements](#)
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## VI. Conflict of Interest

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- B. The mere existence of either a potential or actual conflict of interest does not mean that such conflict must necessarily be eliminated. All actual and potential conflicts of interest must be disclosed and evaluated by the Conflict of Interest Committee.
- C. In the following situations and activities, there is at least the appearance, and possibly the actuality, of an employee allowing his/her personal interests, and not the best interests of MTSU, to affect that employee's judgment. This list is illustrative rather than exhaustive.
  - 1. Self-dealing. Situations in which an employee can appear to influence, or actually influence, a University-related decision from which that person, or a member of that person's family, stands to realize a personal financial benefit is self-dealing and a conflict of interest. Examples of self-dealing activities are numerous and include, but are not limited to, those listed below.
    - a. Purchase of State-owned property by an employee, absent fair and open bidding. It is unlawful for any State employee to purchase surplus State-owned property, absent a fair and open bidding process (T.C.A. §§ 12-2-208 and 12-2-412; [Policy 685 Disposal of Surplus Property](#).)

- b. University purchases from businesses in which an employee has a financial interest (T.C.A. § 12-4-103). Employees are prohibited from bidding on, selling, or offering to sell, any merchandise, equipment, material, or similar commodity to the State of Tennessee during their employment, or for six (6) months thereafter, or to have any interest in the selling of the same to the state. Violation of this provision is considered a Class E felony.
  - c. Certain bids on State contracts (T.C.A. § 12-4-106(b)). It is a conflict of interest for any employee, or any company with whom such employee is an officer, director, or equity owner with more than one percent (1%) interest, to bid on any public contract for products or services for the University, if that person or his/her spouse, dependent children, stepchildren, or relatives related by blood or marriage is responsible for approving such contract for the University.
  - d. Use of educational materials from which a faculty member derives financial benefit. Any faculty member who wishes to use in his/her teaching activities educational materials (i.e., a textbook) that he/she has authored, or in which he/she otherwise stands to benefit financially from such use, has a conflict of interest that must be managed. The faculty member shall make a conflict of interest disclosure to the faculty member's Department Chair. The disclosure must adequately indicate the facts and circumstances that would support the particular textbook being used. Whether the use of such materials shall be permitted shall be evaluated by the Chair, along with the department textbook committee. Such evaluation shall include consideration of suitable substitute materials and ensure that the needs of students are best served by use of the materials in which the faculty member has an interest.
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    - (1) Has, or is seeking to obtain, contractual or other business or financial relations with the institution in which the individual is employed; or
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  - b. Exceptions. The prohibition on accepting gifts in this section does not apply to:

- (1) A gift with a non-business purpose, motivated by a close personal friendship and not by the employee's position with the University;
  - (2) Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;
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  2. Employee made disclosures shall be evaluated by MTSU's Conflict of Interest Committee.
- F. Conflict of Interest Committee



1. The Conflict of Interest Committee (Committee) is an advisory committee and resides under the President's Office. The primary members of the Committee shall be representatives from the Offices of the University Counsel, Audit and Consulting Services, Compliance and Enterprise Risk Management, and Business and Finance. Other areas of the University, such as Human Resource Services, Academic Affairs, Student Affairs, etc., may be brought in to assist the Committee to provide additional insight and expertise, depending on the nature of the disclosure submitted.
2. Consistent with this policy, the Committee will evaluate conflict of interest disclosures and situations, determine whether a conflict of interest exists, and advise on what actions may be required to manage, reduce, or eliminate an employee's conflict of interest.
3. If the Committee determines that an employee has a conflict of interest, the employee shall receive notice of the Committee's evaluation and be given an opportunity to appear before that Committee before the Committee forwards its decision to the President.
4. If the Committee determines that an employee has a conflict of interest that primarily involves externally funded research, research activities, or ethical conduct in research, the employee's conflict of interest will be referred to the Office of Research Services and/or to the Division of Academic Affairs for review pursuant to [Policy 404 Conflict of Interest for Externally Funded Projects](#).
5. Any disclosure that indicates an actual violation of law shall be forwarded to the President along with the Committee's findings.
6. The President will determine the appropriate action(s) to be taken.
7. For any conflict that is not a violation of federal or state law, the Committee is permitted to make a determination that the conflict is de minimis and is permitted to continue; to place restrictions on the employee to manage the conflict; or, to instruct the employee to eliminate the conflict. The Committee will provide the employee its decision in writing.

#### G. Appeal

1. An employee may file an appeal with the President within ten (10) business days, absent good cause, of receipt of the Committee's decision.
2. The President shall notify the employee in writing of his/her decision within ten (10) business days, absent good cause.

3. The President's decision shall be final and binding.

#### H. Sanctions

1. Failure to follow any law or University policy relating to conflicts of interest, including failure to observe restrictions imposed as a result of review of a conflict of interest disclosure, or a knowing failure to disclose a conflict of interest, may result in disciplinary action, including, but not limited to, termination.
2. The Committee will refer violations to the appropriate Vice President or Provost for appropriate action, if any.

### VIII. Conflict of Commitment

The primary work related commitment of an employee's time and energy should be to the University. Employees should avoid external commitments that significantly interfere with his/her performance of, or impair his/her independence of, judgment in the performance of the employee's duties to MTSU. See [Policy 814 Outside Employment, Extra Compensation, and Dual Services Agreements](#). Disclosures of conflicts of commitment shall be made as required in that policy and be evaluated as indicated in that policy.

### IX. Interpretation

The President or designee has the final authority to interpret the terms of this policy.

Forms:

[Employee Conflict of Interest Disclosure Statement](#)

[Conflict of Interest Checklist](#)

Revisions: June 5, 2017 (original policy); \_\_\_\_\_, 2019.

References: T.C.A. §§ 8-50-501; 12-2-208; 12-2-412; 12-2-415 – 417; 12-4-106; 12-4-101 – 104; Policies 140 Intellectual Property; 404 Conflict of Interest for Externally Funded Projects; 632 Purchasing Card (P-Card) Program; 637 Cash Purchases and Petty Cash Funds; 685 Disposal of Surplus Property; 814 Outside Employment, Extra Compensation, and Dual Services Agreements; 816 Nepotism.

MIDDLE TENNESSEE STATE UNIVERSITY  
**Employee Conflict of Interest Disclosure Statement**  
Corresponding Policy 12 Conflict of Interest

**For HR Use Only**

Faculty  
 Dean/Chair  
 Vice-Provost  
 Executive/VP  
 Staff

### INSTRUCTIONS

If you have a conflict of interest, please complete this Employee Conflict of Interest Disclosure Statement (Disclosure Statement) by entering the appropriate information below.

If you do NOT have a conflict of interest, you do NOT need to complete this Disclosure Statement.

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### DEFINITIONS

The following definitions apply to this Conflict of Interest Disclosure Statement in compliance with MTSU [Policy 12 Conflict of Interest](#).

1. **Conflict of Interest.** Occurs when the personal interests, financial or otherwise, of a person who owes a duty to MTSU actually, or potentially, diverge from the person's professional obligations to, and the best interests of, MTSU. For the purposes of this policy, a conflict of interest with a vendor or contractor also creates a conflict of interest with any sub-vendor or sub-contractor of the vendor or contractor.
2. **Conflict of Commitment.** A conflict of commitment occurs when the personal or other non-University related activities of an employee impair the ability of that employee to meet his/her commitments of time and energy to the University.

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### SECTIONS

- I. [Financial Interests](#)
- II. [Family Relationships](#)
- III. [Business Relationships](#)
- IV. [Gifts](#)
- V. [Financial Transactions](#)
- VI. [Lobbying](#)
- VII. [Other Conflicts of Interest](#)

1. Name of Employee submitting the statement: \_\_\_\_\_
2. Title or position with MTSU: \_\_\_\_\_
3. Email: \_\_\_\_\_
4. The following statement is submitted in accordance with the annual Middle Tennessee State University (MTSU) Employee Conflict of Interest Policy:

## I. Financial Interests

Please review the selections below, and check all that apply. For financial interests for which an employee has a financial interest conflict, please also complete the information in the table provided.

- I have a single-transaction financial interest in a specific business, contract, vendor, subcontractor, or purchase connected to MTSU (please attach an explanation and supporting documentation).
- I, or a member of my family (spouse, dependent, extended relative), holds a financial interest in one or more businesses, contracts, vendors, or subcontractors connected with MTSU, or from whom MTSU purchases products or services (please attach an explanation and supporting documentation).

Name of Company or Business for which the MTSU Employee has an ownership interest	Type of Goods or Services offered by the Company and purchased by MTSU	Purchase Amount or Value (includes Goods, Services, or Contracts)

## II. Family Relationships

At any time during the preceding twelve (12) months, was any Board Trustee or Executive Officer of MTSU a family member of yours?

- Yes (If 'Yes,' please attach an explanation with any supporting documentation)
- No

Name of Trustee or Executive Officer	Position Held by Executive Officer, or if a Board Trustee, indicate by stating "Trustee"	Specific Family Relationship

### III. Business Relationships

At any time during the preceding 12 months, did you, or any member of your family, have a Business Relationship with any Executive Officer or Board Trustee of Middle Tennessee State University?

Yes (If 'Yes,' please attach an explanation with any supporting documentation)

No

Name of Trustee or Executive Officer	Position Held by Executive Officer, or if a Board Trustee, indicate by stating "Trustee"	Specific Business Relationship

### IV. Gifts

#### Cash

At any time during the preceding 12 months, did you, or any member of your family, provide or receive a gift of cash of any value to or from an Executive Officer or Board Trustee of Middle Tennessee State University?

Yes (If 'Yes,' please attach an explanation with any supporting documentation)

No

Name of Trustee or Executive Officer	Position Held by Executive Officer, or if a Board Trustee, indicate by stating "Trustee"	Cash Amount

*Non-Cash*

At any time during the preceding 12 months, did you, or any member of your family, provide or receive a non-cash gift of more than \$50 to or from an Executive Officer or Board Trustee of Middle Tennessee State University?

Yes (If 'Yes,' please attach an explanation with any supporting documentation)

No

Name of Trustee or Executive Officer	Position Held by Executive Officer, or if Board Trustee, indicate by stating "Trustee"	Gift Description

**V. Financial Transactions**

During the preceding twelve months, did you, or any family member, provide or receive a loan, grant, lease, license, commercial contract, investment agreement, prize, scholarship, consulting contract, or fellowship to or from an Executive Officer, Board Trustee, or Management member of Middle Tennessee State University in connection with the University's regular business operations?

Yes (If 'Yes,' please attach an explanation with any supporting documentation)

No

Name of Trustee or Executive Officer	Position Held by MTSU Executive Officer, Management Member, or if Board Trustee, indicate by stating "Trustee"	Type of Financial Transaction

**VI. Lobbying**

During the preceding twelve months, did you or any organization or firm with whom you were affiliated or hired, engage in compensated, registered legislative lobbying related to any educational issue?

Yes (If 'Yes,' please attach an explanation with any supporting documentation)

No

Agency or Entity Represented in Your Lobbying Capacity	Measures or Legislation Supported or Opposed	Participating Public/Political Official or Legislative Committee Name

**VII. Other Conflicts of Interest (please describe in detail below)**

1. Examples include, but are not limited to:

- 1. Your spouse is your direct or indirect supervisor;
- 2. You and your spouse are involved in the same Research Project;
- 3. You are involved in a hiring decision involving a relative, spouse, or significant other;

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**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Information Item**

DATE: April 3, 2019

SUBJECT: [Report of Conflict of Interest  
Disclosures in 2018](#)

PRESENTER: Gené Stephens  
Assistant Vice-President,  
Office of Compliance and Enterprise  
Risk Management

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**BACKGROUND INFORMATION:**

In the Audit and Compliance Committee (“Committee”) Charter Section IV. Responsibilities, G.4, the Committee is to ensure that all potential conflicts of interest are adequately resolved and documented.

Included in the materials is the 2018 report of the conflict of interest disclosures reviewed by the Conflict of Interest Committee.



**Conflict of Interest Committee**  
 Middle Tennessee State University  
 1301 East Main Street  
 Murfreesboro, Tennessee 37132



January 10, 2019

Dr. Sidney A. McPhee, President  
 Middle Tennessee State University  
 1301 East Main Street  
 Murfreesboro, TN 37132

Dear Dr. McPhee:

This is the 2018 calendar year report for the Conflict of Interest Committee (Committee). Per MTSU Policy 12 Conflict of Interest, the Committee is an advisory group reporting to the President's Office. The Committee will evaluate conflict of interest (COI) disclosures and determine whether a conflict exists. For any conflict that is not a violation of federal or state law, the Committee is permitted to make the following determinations: 1) the conflict is de minimis and is permitted to continue; 2) the conflict may be managed by placing restrictions on the employee; or 3) the conflict may not be managed so the employee must eliminate the conflict.

Below is a summary of the types of conflict of interest disclosures reviewed and the Committee's conclusions for 2018. There were no conflicts identified as violations of federal or state law.

<u>Type of Disclosure</u>	<u>No COI</u>	<u>De Minimis</u>	<u>Managed</u>	<u>Eliminated</u>	<u>Referred to Academic Affairs</u>	<u>Totals</u>	<u>Prior Year Totals</u>
Educational Materials	-	-	5	-	-	5	6
Acceptance of Gifts	-	-	-	-	-	-	2
Family Relationship	-	-	2	-	-	2	-
Consensual Relationship	-	-	2	-	-	2	1
Financial/Business Interest	4	-	1	1	-	6	2
Other	-	-	-	-	1	1	1
<b>Total Disclosures Reviewed</b>	<b>4</b>	<b>-</b>	<b>10</b>	<b>1</b>	<b>1</b>	<b>16</b>	<b>12</b>

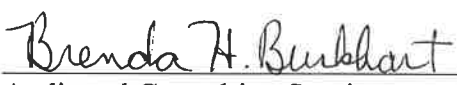
If you have any questions or need any additional information, please contact Ms. Gené Stephens, Assistant Vice-President, Compliance & Enterprise Risk Management at 615-494-8812. This report will be presented to the Audit and Compliance Committee as an informational item.

Respectfully submitted,  
 Members of the COI Committee

  
 Office of University Counsel

  
 Business and Finance

  
 Compliance and Enterprise Risk Management

  
 Audit and Consulting Services

Middle Tennessee State University is an AA/EEO employer and does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities. The following person has been designated to handle inquiries regarding the nondiscrimination policies: Executive Director of Institutional Equity and Compliance, 1301 E. Main Street, CAB 116, Murfreesboro, TN 37132, 615-898-2185. Additionally, the MTSU Title IX Coordinator, designated to monitor and oversee Title IX complaints, may be contacted at: Sam Ingram Building 2269 Middle Tennessee Blvd. Murfreesboro, TN 37132 615-898-5133, or via this webpage: <http://www.mtsu.edu/titleix/>.





**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Information Item**

DATE: April 3, 2019

SUBJECT: [Review of President's Statement of Disclosure of Interests for 2019](#)

PRESENTER: Brenda Burkhart  
Chief Audit Executive

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**BACKGROUND INFORMATION:**

MTSU Policy 12 Conflict of Interest states, "The President's disclosure [Form ss8005] shall be evaluated by the Board of Trustees or a duly appointed committee thereof."

The Audit and Compliance Committee is charged with assisting the Board in exercising oversight of standards of conduct and ensuring compliance with legal and regulatory requirements. Dr. McPhee's 2019 Disclosure of Interests form is presented for the Committee's review.





## Statement of Disclosure of Interests (ss-8005)

### Report Year

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2019

### Date of Filing

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2019-01-14

### Filer Contact Information

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**SIDNEY MCPHEE** [View all statements](#)  
MIDDLE TENNESSEE STATE UNIVERSITY, 1301 EAST MAIN ST - CAB 204  
MURFREESBORO, TENNESSEE 37132

### Office Held or Sought

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Incumbent  
President - College or Univ. governed by Board of Regents

### Sources of Income

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SUN TRUST BANK BOARD MURFREESBORO, TN: Income received by Filer

SUN TRUST BANK BOARD NASHVILLE, TN: Income received by Filer

CONSULTING SERVICES FOR BAHAMAS MINISTRY OF TOURISM: Income received by Filer

CONSULTING SERVICES FOR THE COLLEGE OF THE BAHAMAS - MINISTRY OF EDUCATION AND FINANCE:  
Income received by Filer

### Investments

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TIAA CREF SUPPLEMENTAL RETIREMENT FUND: Held by Filer

AIG VALIC RETIREMENT FUND; STATE OF TN RETIREMENT: Held by Spouse

## Lobbying

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None

## Professional Services

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None

## Retainer Fees

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SUN TRUST BANK BOARD MURFREESBORO, TN

SUN TRUST BANK BOARD NASHVILLE, TN

## Bankruptcy

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None

## Loans

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None

## Certification

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**I certify.**

You certify that all of the information you have entered is true, correct, and complete in accordance with the Conflict of Interest Disclosure Act to the best of your knowledge.

I, the undersigned, do hereby witness that the above information was entered in my presence.

**Witness Name** KIMBERLY EDGAR

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**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Information Item**

DATE: April 3, 2019

SUBJECT: [Report on Compliance with Public Records Policy](#)

PRESENTER: Heidi Zimmerman  
University Counsel and Board Secretary

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**BACKGROUND INFORMATION:**

MTSU Policy 120 Public Records, Section III.B.3 requires the Public Records Coordinator to annually report to the Board concerning the institution's compliance with the Tennessee Public Records Act and make recommendations, if any, for revisions to this policy.

A summary of the number of records requests received in 2018 is provided for the Committee's review.



<b>Records Requests Received in 2018</b>			
	Denied	Provided	<b>TOTAL REQUESTED</b>
Athletics - Reports	6	4	10
Athletics - Coach Contracts	10	21	31
Procurement Services	3	11	14
Contract Office	7	11	18
Employment Records	6	7	13
Misc.	1	3	4
Police Reports	1	13	14
Student Records	11	9	20
<b>TOTAL</b>	<b>45</b>	<b>79</b>	<b>124</b>





**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Information Item**

DATE: April 3, 2019

SUBJECT: [Results of External Reviews](#)

PRESENTER: Brenda Burkhart  
Chief Audit Executive

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**BACKGROUND INFORMATION:**

The Tennessee Comptroller of the Treasury issued the financial and compliance audit report for the year ended June 30, 2018 on January 15, 2019. The independent auditor's report included unmodified opinions on the fairness of the presentation of the financial statements. The audit report contained no audit findings. A copy of the "Audit Highlights" page from the audit report is included in the materials for your review.

A complete copy of the audit report is located on the Comptroller of the Treasury webpage at:

<https://comptroller.tn.gov/content/dam/cot/sa/advanced-search/disclaimer/2019/cu19006.pdf>

The Tennessee Comptroller of the Treasury also completed the agreed-upon procedures applied to the statement of revenues and expenses of the athletics programs in compliance with the National Collegiate Athletic Association (NCAA) Bylaw 3.2.4.15 for the year ended June 30, 2018. There were no exceptions noted.



State of Tennessee

# Audit Highlights

Comptroller of the Treasury

Division of State Audit

Financial and Compliance Audit

## **Middle Tennessee State University**

For the Year Ended June 30, 2018

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### **Opinions on the Financial Statements**

The opinions on the financial statements are unmodified.

### **Audit Findings**

The audit report contains no findings.







**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Information Item**

DATE: April 3, 2019

SUBJECT: [Quarterly Report – Results of Internal Audit Reports](#)

PRESENTER: Brenda Burkhart  
Chief Audit Executive

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**BACKGROUND INFORMATION:**

MTSU Policy 70 Internal Audit section IX.F requires significant results of internal audit reports be presented to the Audit and Compliance Committee quarterly.

Since the last quarterly report of audit results to the Audit and Compliance Committee, the following three audit reports have been issued:

- 1) Audit of the Office of the President for Fiscal Year 2018 is an annual audit required by state law. There were no reportable issues.
- 2) Audit of Football Ticket Sales and Paid Attendance for Fall 2018 concluded compliance with NCAA criteria. The football average paid attendance exceeded the attendance requirement.

3) Special Review of Interfraternity Council's [IFC] Bank Account for the Period January 1, 2014 – March 31, 2016 was requested by management regarding the following concerns: IFC expense/reimbursement forms were not used; all checks did not have the required two signatures; and the former Coordinator for Fraternity and Sorority Life, who had signature authority, had written checks to himself. The concerns were substantiated with explanation: the IFC expense/reimbursement request forms were not used because individuals were unaware the forms were required by the by-laws; checks did not have the required two signatures; and the former coordinator had written checks to himself. The review revealed that the former coordinator and former director had used personal funds and/or credit cards to pay for council expenses. The intermingling of funds created check payments to the former coordinator and former director. The former coordinator owes \$160 to the IFC. The recommendations included compliance with the existing by-laws and procedures, improvements to the cash management process and a suggested policy revision.

The current status of the Internal Audit Plan for Fiscal Year Ended June 30, 2019 is included for the Committee's review.

**Middle Tennessee State University  
Internal Audit Plan  
Fiscal Year Ended June 30, 2019  
as of March 22, 2019**

Type	Area	Audit Project	Current Status	Audit Results
R	FM	Year-End Inventory FY2018	Report Issued 9/26/18	No Reportable Issues
R	FM	Cash Counts FY2018	Memo to Management 8/8/18	No Reportable Issues
R	GV	Audit of President's Office	Report Issued 11/26/18	No Reportable Issues
I	SS	Special Review of Interfraternity Council's Bank Account For the Period January 1, 2014 - March 31, 2016 (INV1602)	Report Issued 3/21/19	5 Recommendations
I	AA	INV1604	In Progress	
I	SS	INV1702	In Progress	
I	MC	Review of Marketing and Communications Contest Entry Fees for Fiscal Years 2016-2018 (INV1704)	Report Issued 9/5/18	No Reportable Issues
I	AA	INV1705	In Progress	
I	AA	INV1801	Draft Report	
I	AT	INV1802	In Progress	
I	IT	INV1901	Administratively Closed 9/28/18	No Reportable Issues
I	FM	INV1902	Administratively Closed 8/7/18	No Reportable Issues
I	IT	INV1903	In Progress	
I	AT	INV1904	In Progress	
R	AT	Football Attendance Fall 2018	Report Issued 2/6/19	No Reportable Issues
F	GV	State Audit Assistance/Follow-Up	Project Throughout Year	n/a
C	GV	General Consultation	Project Throughout Year	n/a
I	GV	Unscheduled Investigations	Project Throughout Year	n/a
R	FM	Cash Counts FY2019	Scheduled	
R	FM	Year-End Inventory FY2019	Scheduled	
P	GV	IIA - Self Assessment & QAR	Scheduled	
S	AA	Use of Aircraft	In Progress	
A	AA	Research Services Procedural Review	Scheduled	
A	SS	Financial Aid Procedural Review	Scheduled	
A	FM	Property Management Contract Review	Scheduled	

**Audit Types:**

A - Risk-Based (Assessed)  
 C - Consulting  
 F - Follow-up Review  
 I - Investigation  
 M - Management's Risk Assessment  
 P - Project (Ongoing or Recurring)  
 R - Required  
 S - Special Request

**Area = University Division**

AA - Academic Affairs  
 AD - Advancement  
 AT - Athletics  
 FM - Financial Management  
 GV - Governance/Executive Office  
 IT - Information Technology  
 MC - Marketing and Communications  
 SS - Student Services