



Pima County Community College District Administrative Procedure

<i>AP Title:</i>	Disclosure of Conflict of Interest – Pecuniary or Proprietary Interest
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<i>Legal Reference:</i>	A.R.S. § 38-501 – 38-511
<i>Cross Reference:</i>	

PURPOSE

This Administrative Procedure (“AP”) provides notice and information to all College employees concerning Arizona’s Conflict of Interest Law (“the Conflict Law”). This AP also sets out the requirements employees need to follow to be in compliance with the Arizona Conflict Law and related College requirements.

SECTION 1: Definitions

1. Relative

A “relative” of a College employee is defined in the Conflict Law as the following: (1) an employee’s spouse, child, grandchild, parent, grandparent, brother, sister, half-brother, and half-sister; (2) the spouse of any of the foregoing; and (3) the employee’s spouse’s parent, brother, sister or child. The College also considers close relatives of the employee to include nephew, niece, domestic partner, and child of a domestic partner.

2. Substantial Interest/Financial Interest

A “substantial interest” is defined in the Conflict Law as “any pecuniary or proprietary interest, either direct or indirect, other than a remote interest.” Pecuniary means money, and proprietary means ownership. Because the term substantial interest is somewhat confusing, any interest involving money and/or ownerships shall hereafter be referred to as a financial interest.

3. Remote Interest

A “remote interest” is one of the specific interests set out in A.R.S. § 38-502 (10). Under the Conflict Law and this AP, employees may, but are not required to, disclose a remote interest. An employee must disclose all other financial interests, direct or indirect. The following is a list of remote interests defined in the Conflict Law.

1. A College employee or relative who owns shares of a for-profit corporation has a remote interest in any College transaction with or decision affecting the corporation, if three conditions are satisfied: (a) the person owns 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.
2. A College employee or relative being reimbursed for actual and necessary expenses incurred in the performance of his or her duties has a remote interest in any decision affecting the reimbursement.
3. A College employee or relative who receives public services provided to the general public by the College 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 non-employees.
4. A College employee or a relative who is a non-salaried officer of a nonprofit corporation has a remote interest in any College transaction with or decision affecting that corporation.
5. A College employee or relative who is a landlord or tenant of another party has a remote interest in any College transaction with or decision affecting the other party.

6. A College employee or relative employee who is an attorney for a client has a remote interest in any College transaction with or decision affecting the client.
7. A College employee or relative who is a member of a nonprofit cooperative marketing association has a remote interest in any College transaction with or decision affecting that association.
8. The interest of a College employee or relative is a remote interest when the transaction with the College or the College decision indirectly affects that person as an employee of another public agency or political subdivision and does not confer a direct economic benefit or detriment upon the College employee or relative.
9. A College employee or relative 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 the College affecting the class.
10. A College employee or relative who is an employee of any business entity or governmental entity that employs at least twenty-five employees within this state and who, in the capacity as an employee, does not assert control or decision-making authority over the entity's management or budget decisions.
11. A College employee or relative who has ownership of any publicly traded investments that are held in an account or fund, including a mutual fund, that is managed by one or more qualified investment professionals who are not employed or controlled by the officer or employee and that the officer or employee owns shares or interest together with other investors.

SECTION 2: Scope

All College employees are required to adhere to the standards set out in the Conflict Law and this AP.

SECTION 3: General Rule

College employees must comply with the Conflict Law. The Conflict Law provides that if an employee has, or an employee's relative has, a financial interest in any decision or transaction made or to be made by the College, the employee must: (1) disclose such financial interest on a "Conflict of Interest Disclosure Form" and (2) refrain from participating in any manner in such decision or

transaction, including any contract, fee, grant, purchase, sale, service, benefit or any other matter.

Certain narrowly defined remote interests are excluded from the Conflict Law and can be, but are not required to be, disclosed on the College's "Conflict of Interest Disclosure Form." If an employee chooses not to disclose a financial interest on the form, he or she is responsible for determining that the financial interest is a remote interest as defined by A.R.S. § 38-502(10). (See definition of Remote Interest above.).

SECTION 4: Other Considerations and Restrictions

The Conflict Law does not prevent an employee from doing business with the College. A College employee may supply equipment, material, supplies, or services to the College but only if the contract is awarded after public competitive bidding. The employee should contact the Finance Department for a description of the competitive bidding requirements. (A.R.S. § 38-503 (C)) Note that when a College employee does business with the College, the employee has a financial interest in the transaction and the disclosure and non-participation requirements set out above apply.

A College employee may not receive or agree to receive directly any valuable thing or valuable benefit that would not ordinarily accrue to the employee in the performance of the employee's official duties. The employee may accept food, refreshments or unsolicited advertising or promotional materials (such as pens or calendars) provided that the food, refreshments or other items are of insignificant value. The employee also may accept items of minor value (such as an inexpensive box of candy) that are merely tokens of appreciation and not designed to influence a decision in a particular transaction.

During employment with the College and for twelve months after leaving employment, a College employee may not represent another person for compensation before the College on any matter that involved a substantial and material exercise of administrative discretion by the employee if: (1) the employee was directly concerned with the matter while a College employee; and (2) the employee personally participated in the matter during his or her College employment. (A.R.S. § 38-504 (A))

During employment with the College and for two years after leaving the College, a College employee may not disclose or use in order to obtain a financial interest any information disclosed to him or her in the course of his or her official College

duties that has been clearly designated to him or her as confidential or that is declared confidential by law. (A.R.S. § 38-504 (B)) Exception: A current or former College employee may disclose or use otherwise confidential information in situations where the employee obtains appropriate College authorization for the disclosure of the information.

The College may not employ a person who is a member of the Governing Board or a spouse of a member of the Governing Board. (A.R.S. § 38-503 (D))

SECTION 5: Process and Procedures

1. Responsibility for Distribution of Conflict of Interest Disclosure Forms

The Executive Vice Chancellor for Administration is responsible for the annual Conflict of Interest Disclosure Form process for all College employees.

2. Disclosure of Conflict of Interest

Annual Disclosures: Governing Board members, as provided in their Bylaws, and the following employees of the College, pursuant to this AP, shall submit annual disclosure forms:

- a. ELT members
- b. Employees with independent oversight roles, such as the Internal Auditor and Chief Compliance Officer
- c. Purchasing and contract officers
- d. Director and Managers of Business and Financial Services, and
- e. Others as identified by the Executive Vice Chancellor for Finance.

The Chancellor's Office shall generate the annual disclosure form workflow for Governing Board members. The Executive Vice Chancellor for Administration's office shall generate other annually required disclosure form workflows.

Employees who serve on evaluation teams such as selection advisory committees or RFP evaluation teams shall confirm, prior to serving, that they do not have a conflict of interest.

All employees shall act consistent with the General Rule described in Section 3 and submit a self-generated disclosure form workflow if an

annual disclosure has not already been submitted that identifies the potential conflict of interest. Discussions with supervisors are appropriate but the form must still be submitted to document the potential conflict of interest.

3. Maintenance of Forms

All completed Conflict of Interest Disclosure Forms shall be maintained as a public record in Human Resources.

4. Ongoing Requirement to Disclose Conflicts of Interest

Employees of the College must identify on an ongoing basis any new or changed circumstances where the College's actions might directly or indirectly affect their financial interests or the financial interests of their relatives. If an employee develops an actual or anticipated conflict of interest in a matter that has not been disclosed during the annual completion of the Conflict of Interest Form, the employee must immediately withdraw from participation in all activities and decisions related to the matter. In addition, the employee must complete a new Conflict of Interest Form self-generated workflow, describing the new potential or existing conflict of interest and affirming that the employee has withdrawn from participation in the matter. This new Conflict of Interest Form will be maintained in Human Resources.

5. Communication with Supervisor

Conflict of Interest Forms that indicate a potential conflict shall be shared with an employee's supervisor to facilitate avoidance of actual conflicts and reassignment of a role that could result in a conflict of interest. Conflicts involving the Chancellor shall be shared with the Governing Board Chair.

6. Failure to Disclose

Failure to appropriately disclose any conflict of interest may result in disciplinary action up to and including termination. Failure to appropriately disclose any conflict of interest may also subject the employee to criminal penalties. (A.R.S. § 38-510.)

7. Availability of Assistance

An employee who (1) has any questions concerning this specific practice guide; (2) desires assistance in determining whether a particular circumstance does or does not present a conflict of interest situation; or (3) desires assistance with the conflict of interest process set out in this AP,

should contact the College's Employee Relations Office for assistance (206-4624).

SECTION 6: Outcomes

College employees are advised of their responsibility to actively eliminate conflict of interest situations in their employment with the College. They are also provided with the necessary steps to meet compliance obligations.