



**Institutional Handbook of Operating Procedures
Policy 06.05.05**

Section: Compliance	Responsible Vice President: Chief Compliance Officer
Subject: Conflicts of Interest and Ethics	Responsible Entity: Office of Institutional Compliance

I. Title
Gifts, Honoraria, Fundraising, and Other Activities.

II. Policy
The mission of UTMB is to create and sustain excellence in educational opportunities, research, and health care. In support of that mission, we value and are committed to maintaining high standards of excellence, integrity, and accountability in our conduct. This policy is intended to enhance the ability of UTMB employees to act ethically in accordance with those values and with the law, and to fulfill our obligation to be good stewards of the resources that have been entrusted to us. This policy applies to all UTMB faculty members, employees, contractors, students, institutes, departments, and other UTMB entities.

When UTMB accepts a [gift](#), grant, donation, or other consideration from a person that the person designates to be used as a salary supplement for an employee of the institution, the receiving entity shall analyze the gift, grant or donation for potential conflicts of interest. If a conflict of interest exists, the institution shall utilize its current processes and procedures to eliminate or manage the conflict.

This policy is divided into the following sections:

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III. General Information
Relationships and transactions between academic medical institutions and vendors and/or industry are complex. Often, UTMB employees and faculty members solicit or are offered “free” goods, gifts, [benefits](#), or grants for teaching or research programs, and/or honoraria, or travel expenses for participating in certain activities, actions, or projects. Many such benefits serve an important purpose. However, proposed gifts or benefits may violate the federal Anti-Kickback statute, federal anti-referral laws, and similar state laws or run counter to traditional ethical norms. Most of these laws impose considerable fines and penalties, including possible imprisonment.

In general, a UTMB employee, including a faculty member, may not accept a gift or benefit that (1) might reasonably tend to influence or be perceived as influencing his/her decision making regarding

purchases, contracts, or any other official duty; (2) he/she knows or should know is being offered with the intent to influence his/her decisions; (3) induces the employee to disclose confidential information; or (4) induces the employee to use his/her official powers or duties in favor of another. Additionally, a gift or benefit may be considered improper if it is made to a person in a position to generate business for the paying party, if the payment is related to the volume of business generated, if the payment is more than nominal in value and/or exceeds fair market value of any legitimate service rendered to the payer, or if the payment is unrelated to any service at all other than the referral of patients. Additional guidance is provided below.

Please consult UTMB's Conflict of Interest Office within the Office of Institutional Compliance if you have any questions regarding whether you should accept or solicit a gift or benefit.

IV. Acceptance of Gifts/Benefits from Non-Industry or a Non-Vendor

There are two standards under Texas law governing gifts – (1) a general standard of conduct that applies to ALL employees and (2) a criminal standard that applies only to those employees who make recommendations or have decision making authority with regards to contracts and other financial transactions.

General Standard – Under the general standard, an employee shall not accept or solicit any gift, favor, service, or benefit that might reasonably tend to influence the employee in the discharge of official duties or that the employee knows or should know is being offered with the intent to influence official conduct. This standard applies even if the donor is not asking the employee to do something in exchange for the gift and even if the gift has no actual or real influence over official duties. Acceptance or solicitation of a gift in violation of this standard is not a criminal offense, but is grounds for discipline up to, and including termination.

Criminal Standard – The criminal standard applies to those employees who make recommendations or decisions regarding UTMB contracts and other financial transactions. In addition to following the general standard, it is a crime for these employees to accept a gift from an individual or entity that is interested in or likely to become interested in a transaction to which the employee is capable of making decisions. The following are exceptions to this criminal standard:

- (1) non-cash items worth less than \$50 that are not given in exchange for any exercise of official discretion;
- (2) a gift from a person such as a relative, friend, or business associate with whom you have a relationship independent of your official status, if the gift is given on account of that relationship rather than your official status; and
- (3) food, lodging, transportation, or entertainment in any amount if the donor is present at the event or activity and the benefit is not given in exchange for any exercise of official discretion. (The law provides additional prohibitions if the donor is a lobbyist registered with the Texas Ethics Commission. It is advisable to consult the Office of Institutional Compliance before accepting a gift from a lobbyist.)

Please note that it is never lawful to accept a gift in exchange for official action and that the exceptions above do not apply to the prohibition against bribery of state officials.

If a gift given to you exceeds \$250 in value and may reasonably appear to create a conflict of interest, it must be disclosed within thirty (30) days of accepting the gift, using the disclosure process described in *IHOP 6.5.3 – Individual Conflicts of Interest, Conflicts of Commitment, and Outside Activities*. This

does not include gifts received from a parent, child, sibling, grandparent, or grandchild; or from the spouse of a parent, child, sibling, grandparent, or grandchild; or from your spouse's parent, child, sibling, grandparent, or grandchild.

Additional restrictions apply if the gift is from a student loan lender. The definition of a "student loan lender" is very broad and covers entities that may not traditionally be thought of as student loan lenders. You should consult the Office of Institutional Compliance to determine if the proposed gift from the student loan lender is permissible.

It is important to remember that even though the acceptance of a gift may not constitute a crime, it may appear to the public that a gift has influenced you in performing your job. You should not accept any gift that could appear to influence your official conduct, even if the gift is technically legal.

Unsolicited gifts from patients and/or patients' family members may be accepted so long as they are of reasonable value and are not given to influence care or secure preferential treatment. Gifts of cash or cash equivalents (including gift cards or other similar items) from patients and/or patients' families provided in the context of patient-care activities must be fully assigned to the Institutional Trust Fund as required by UTMB's MSRDP Faculty Practice Plan Bylaws.

V. **Acceptance of Gifts/Benefits from Industry and/or a Vendor**
Gifts/Benefits from Industry/Vendors to Faculty, Employees, Departments, and Other UTMB Entities may be accepted if:

- (1) it is reasonable in value;
- (2) is related to a bona fide academic or educational purpose;
- (3) does not violate the general or criminal standard described above;
- (4) is not in the form of cash, checks, or other negotiable instruments (including gift cards or other similar items); and
- (5) in circumstances in which food, lodging, transportation, or entertainment is provided, the donor must be present.

Personal gifts and gifts to attend entertainment events, sporting events, all-expense-paid trips to vacation resorts, and other similar activities serve no academic or educational purpose and are thus prohibited.

Any UTMB faculty member or employee who, as part of his/her institutional responsibilities, may have a substantive role in the determination of Vendor selection may not accept any gift, benefit, or grant if such gift or benefit might be perceived as influencing the Vendor selection. *See IHOP 6.5.4 – Institutional Conflicts of Interest* for further information and guidance.

Gifts/Benefits from Industry/Vendors to Faculty, Employees, Departments, and Other UTMB Entities for Travel, Lodging, or Meal Expenses.

Faculty members or employees may accept from Industry/Vendors reasonable reimbursement for travel, lodging, and related meal expenses to attend conferences or meetings off campus only if the employee lectures, presents posters, presents a paper, participates in a panel discussion, moderates a panel, or performs in other substantive educational roles at the conference or meeting.

If Industry/Vendor invites a UTMB faculty member or employee to a site visit and/or demonstration of products or devices away from UTMB's main campus, which may include training on a new product, device, technology, or user group, a vendor or business representative must be present at the demonstration or seminar and must accompany the UTMB employee for the acceptance of meals or entertainment to be permissible.

Gifts/Benefits from Industry/Vendors to Students, Fellows, and Residents.

If approved by the appropriate Medical Education Program Director or Dean, such gifts/benefits must be placed in a special educational fund or scholarship to support attendance at carefully selected educational conferences, such as major educational, scientific, or policy-making meetings of national, regional, or specialty medical, nursing, or health associations, or courses given by visiting professors or faculty recognized as experts in their field. Inappropriate educational conferences are those that address only a Vendor's product or group of products.

Gifts/Benefits from Industry/Vendors as Part of a Community-Wide Fundraising Event may be accepted from Industry or a Vendor only if such solicitations are for a bona fide academic or educational event sponsored by a UTMB department or UTMB entity and the gift/benefit has a reasonable value. The response by Industry or the Vendor to the solicitation must be voluntary and not motivated by an intent to induce referrals or to induce purchase of the Industry/Vendor's products or services.

Gifts/Benefits from Industry/Vendors to Subsidize Costs of Educational Conferences/Events may be accepted only by a UTMB department, center, institute, school, or the UTMB Office of Continuing Education as the conference's sponsor, who in turn uses the money to reduce the conference's registration fee(s). The subsidy may never be accepted directly by a UTMB faculty member, employee, or student either involved with, or attending, the conference or meeting. Unrestricted educational grants may be accepted from industry donors in support of both Continuing Professional Education (CPE) (such as CME) and non-CPE educational programs that are planned and carried out by these institutional components. Only department chairs, training program directors, deans, or their designees may apply for such grants. In such cases, a reasonable portion of the grant may be used for meals, to the extent that it is required by the timing or nature of the educational program. The use of industry funds should be disclosed to participants. Documentation for all such educational grants should be provided to the Provost's Office

Gifts/Benefits from Industry/Vendors to Specified Faculty or to Departments to Fund Faculty Research or Education may be accepted only if the donation is accompanied with a letter or other instrument from the Industry/Vendor indicating that the specific purpose of the donation is to support UTMB research or education and is not intended to influence purchasing decisions or research outcomes. The donation must be approved by the appropriate Dean of the faculty member and must be accepted by the Office of Development. This policy does not prohibit grants and/or contracts from vendors for research or clinical trials where a formal agreement exists. Gifts/benefits to faculty members or employees as a grant for studies of products when the studies require little or no actual scientific pursuit should not be accepted (e.g., a payment given as a "research grant" to a faculty member for minimal record-keeping tasks.)

VI. Acceptance of Gifts/Benefits for Prescribing or Marketing of Products

Gifts/Benefits from Industry/Vendors to Faculty, Employees, Departments, and Other UTMB Entities for Prescribing or Advocating Products is strictly prohibited and a violation of the Anti-Kickback statute.

Gifts/Benefits from Industry/Vendors to Faculty, Employees, Departments, and Other UTMB Entities for Marketing of Products is not permissible if the gift/benefit is offered in exchange for performing marketing tasks in the course of practicing medicine or providing research and development services (e.g., accepting money or gifts from a vendor to complete evaluation forms on a company's product.)

VII. Acceptance of Gifts/Benefits by UTMB

The authority to accept gifts to UTMB is vested in the Board of Regents of The University of Texas System (Board) and delegated by the Board as set out in Board of Regents' *Rules and Regulations*, Rule 60101. Consequently, no UTMB employee, including the President, has the authority to accept gifts on behalf of the institution. All gifts must be made payable or placed in the name of UTMB. A gift made payable to a UTMB employee is not deductible as a charitable contribution and benefits the employee personally, not UTMB.

The UTMB President has authorized the Office of Development to serve as agent for all philanthropic fundraising programs and for all solicitation, acceptance, and appropriate processing of all contributions.

Acceptance of a gift imposes a legal obligation to comply with the terms established by the contributor. To be accepted, all contributions must be directed to and for the use of UTMB and cannot provide benefit to the contributor.

UTMB subscribes to the Donor Bill of Rights, a nationally recognized standard for fundraising and donor relations.

VIII. Honoraria

UTMB employees may accept honoraria from an academic entity, federal or state agency, professional service organization, non-profit organization, federal or state agency, foundation, or other similar entity outside UTMB, for service by the employee to that entity, a speaking engagement, or other public appearance that is beyond the employee's normal responsibilities to UTMB, so long as the activity pertains to the employee's professional specialty or expertise.

Accepting an honorarium is not permitted, however, if the services would not have been requested but for the employee's official position or duties or when the honorarium is offered in lieu of a benefit that would otherwise be prohibited. For example, an employee may not accept a gift or payment for giving a speech if the employee would not have been asked to provide the speech but for the employee's position at UTMB.

Even if an honorarium would otherwise be prohibited, an employee may still be reimbursed for transportation, lodging, and meal expenses incurred during his/her active participation in a conference or seminar as long as the employee's services provided are more than merely perfunctory or superficial. Also, an employee may accept a gift of very minimal value, such as a plaque or coffee cup.

If a UTMB employee is asked to present at a conference/seminar and is paid a permissible honoraria/fees, the honoraria/fees may be retained by the employee provided that: (a) the travel expenses were paid or reimbursed by an individual or entity other than UTMB; and (b) the activity is scholarly or academic in nature and is important to the mission of UTMB or important for faculty/staff development and meets the other requirements of this policy and IHOP 6.5.3 – *Conflicts of Interest, Conflicts of Commitment, and Outside Activities*. Otherwise, the honoraria/fees must be given to UTMB to offset institution expenditures.

**IX. Fundraising and Raffles
General Fundraising/Solicitation Information**

(a) Student Organizations

Students should consult the most recent [Registered Student Organization Handbook](#) for information and guidance pertaining to solicitation and fundraising activities conducted by student associations and registered student organizations.

Qualified Student Organizations should contact UTMB's [Office of Student Life](#) to ensure that they are in compliance with state law and UTMB, as well as UT System, policies and procedures.

(b) Non-Student Groups

Non-student groups wanting to solicit funds and/or engage in fundraising activities, such as bake sales, must be registered with the Office of the President. Proceeds from such fundraising activities must benefit a UTMB school, department, institute or activity.

Pursuant [IHOP - 02.06.04](#) – *Registering a Faculty or Staff Organization* a non-student group is eligible to apply for registration if all members of the organization are full-time or part-time employees and the organization's purpose does not conflict with UTMB or UT System policies.

A group of UTMB employees may request registration as a faculty or staff organization by completing an [application form](#) and submitting it to the Office of the President.

Raffles

- (a) Raffles are generally prohibited pursuant to the Texas [Charitable Raffle Enabling Act](#).
- (b) However, pursuant to the law, there are generally four types of organizations that may be considered a “qualified organization” eligible to conduct raffles:
 - (1) a nonprofit association organized primarily for religious purposes that has been in existence in Texas for at least ten (10) years;
 - (2) a nonprofit volunteer emergency medical service that does not pay its members other than nominal compensation;
 - (3) a nonprofit volunteer fire department that operates fire-fighting equipment, provides fire-fighting services, and does not pay its members other than nominal compensation; or
 - (4) a nonprofit organization that has existed at least the three (3) preceding years and is exempt from federal income tax under Section 501(c) of the Internal Revenue Code; does not distribute any of its income to its members, officers or governing body; does not devote a substantial part of its activities to attempting to influence legislation; and does not participate in any political campaign. [A copy of your organization's IRS Letter of Determination verifying 501(c) status will be required.]

If your organization does not meet the requirements of a “qualified organization,” you may not conduct raffles. An unauthorized raffle is considered gambling under the Texas Penal Code. Conducting such a raffle is a Class A misdemeanor. Participating in an unauthorized raffle is a Class C misdemeanor.

X. Requests for Review, Questions, or Concerns

A UTMB faculty member, employee, contractor, student, or department and/or other similar entity who has a specific question or concern related to this policy may request a review of the issue by contacting the Conflict of Interest Office within the Office of Institutional Compliance. The Office website is www.utmb.edu/coi. The Conflict of Interest Office may then submit the proposal or question for review

by UTMB’s Conflict of Interest Committee. The Committee will determine whether the offer is compliant with state, federal, and institutional rules and regulations and may be accepted. The Committee will provide a written response to the employee or faculty member with details of its determination.

XI. Enforcement and Compliance

Any UTMB faculty member, employee, contractor, or student who fails to comply with this policy is subject to discipline, up to and including termination of employment for employees or suspension or expulsion in the case of students. In the case of a violation of criminal or civil law, violators may be subject to civil or criminal penalties.

XII. Relevant System Policies and Procedures

- [UT System Regents’ Rules and Regulations](#)
- [UTMB Standards of Conduct Guide](#)
- [UT System Rule 180](#)
- [UT System Rule 175](#)

XIII. Related UTMB Policies and Procedures

- [IHOP - 06.05.01 – Research Conflicts of Interest](#)
- [IHOP - 06.05.02 – Ethical Interactions with Industry](#)
- [IHOP - 06.05.03 – Individual Conflicts of Interest, Conflicts of Commitment, and Outside Activities](#)
- [IHOP - 06.05.04 – Institutional Conflicts of Interest](#)

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XIV. Contact Information

Conflicts of Interest Office
 Office of Institutional Compliance
 409.747.8795
coi.in@utmb.edu
<http://www.utmb.edu/coi>