



Institutional Handbook of Operating Procedures
Policy 06.05.05

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

I. Title

Gifts, Vendor and Industry Interactions, and Other Activities.

II. Purpose

This policy establishes standards and requirements for UTMB Institutional Personnel, as defined below, around specific ethics-related issues such as gifts, receipt of food, honoraria, fundraising, and interactions with vendors or industry representatives.

III. Scope

This policy applies to all Institutional Personnel. This policy must be followed in addition to IHOP - 06.05.01 – *Research Conflicts of Interest*; IHOP - 06.05.03 – *Individual Conflicts of Interest, Conflicts of Commitment, and Outside Activities*; IHOP - 06.05.04 – *Institutional Conflicts of Interest*; IHOP - 06.05.06 – *Code of Ethics and Standards of Conduct for State Employees*, IHOP – 09.07.02 – *Vendor Management Policy*, and other IHOP policies where applicable.

IV. Policy

UTMB’s mission 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 Institutional Personnel 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.

As public servants of the State of Texas, Institutional Personnel must consider the appearance of impropriety before accepting any gift or Benefit. They must also consider whether accepting a gift or Benefit is ethically appropriate, regardless of whether it is legally permissible.

V. Standards of Conduct

V.1 Ethical Standards of Conduct

Institutional Personnel must perform their Institutional Responsibilities in a lawful, professional, and ethical manner benefitting the State of Texas and UTMB. To that end, Institutional Personnel must not:

- A. Accept Outside Activities, Benefits, or Compensation, each as defined below, that results in an unmanageable Conflict of Interest, violates state law, or interferes with, or could appear to interfere with, the Institutional Personnel’s Institutional Responsibilities;

- B. Accept or solicit any Benefit that may reasonably tend to, or is offered with the intent to, influence the individual in the performance of their Institutional Responsibilities;
- C. Intentionally or knowingly solicit, accept, or agree to accept any Benefit for having exercised an Institutional Personnel's official authority or for having performed their Institutional Responsibilities in favor of another person or entity;
- D. Disclose confidential information acquired through their position at UTMB; or accept Outside Activities or Benefits that might reasonably require or prompt the Institutional Personnel to disclose confidential information acquired in the performance of their Institutional Responsibilities;
- E. Accept Outside Activities, Benefits, or Compensation that could reasonably be expected to impair, or appear to impair, an Institutional Personnel's independence of judgment in the performance of their Institutional Responsibilities;
- F. Use the Institutional Personnel's position at or association with UTMB to further a non-UTMB interest. This includes, but is not limited to, using or referencing their position at or association with UTMB to solicit any Benefit, business, or donations for an Outside Activity; market products or services for a business or an Outside Activity; or use their UTMB position to further the personal interest, a business interest, or financial interest of a family member or personal friend; and
- G. Make personal investments that could create an unmanageable Conflict of Interest between their private interests and the institution's interests.

V.2 Bribery Prohibition

- A. UTMB Institutional Personnel are employees of the State of Texas and are subject to Texas Penal Code § 36.02(a), known as the bribery statute.
- B. The bribery statute prohibits Institutional Personnel from intentionally or knowingly offering, giving, or agreeing to give to another; or soliciting, accepting, or agreeing to accept from another any Benefit in return for their decision, opinion, recommendation, vote, or other action that they make as part of their official status or Institutional Responsibilities with UTMB.
- C. This rule applies even if:
 - i. The Institutional Personnel whom the actor sought to influence is not qualified or authorized to provide official action; or
 - ii. The Benefit is not solicited, accepted, offered, or given until after official action has occurred or the Institutional Personnel's status or responsibilities have been severed.
- D. There is no minimum amount or value exception to the bribery statute.

V.3 Abuse of Official Capacity

- A. Institutional Personnel must not use UTMB property, services, personnel, or any other UTMB resource for which the Institutional Personnel is responsible, with the intent to obtain a Benefit, to provide a Benefit to a family member or friend, or to harm another.
- B. The use of trickery, deception, concealment, or misrepresentation in the use of UTMB resources in order to obtain a Benefit constitutes a violation of this policy and Texas Penal Code § 39.02.

5.4 Determining the Permissibility of Benefits and Outside Activities

- A. Only the Institutional Official for Conflicts of Interest (IO-COI), or his/her designee, or the Conflicts of Interest Committee (COIC) has the authority to make determinations regarding the provisions stated in this policy.
- B. Institutional Personnel with a specific question or concern related to this policy may request a review of the issue by contacting the Conflicts of Interest Office within the Office of Institutional Compliance by email at coi.in@utmb.edu.

VI. Benefits to Institutional Personnel, Generally

VI.1 Benefits, generally

- A. Unless otherwise prohibited by this policy, Institutional Personnel may accept the following types of Benefits if they are not given in exchange for official action:
 - i. Benefits valued at less than \$50, excluding Cash and cash equivalents; and
 - ii. Benefits from family, friends, or business colleagues who are not vendors of UTMB nor seeking to become vendors of UTMB or are otherwise not seeking any professional or personal advantage.
- B. Institutional Personnel must not accept any Benefit in exchange for any action related to their Institutional Responsibilities.
- C. Institutional Personnel must not accept any Benefit for participating in a survey, focus group, or other opinion-based interaction with any outside entity. Departments or divisions within UTMB wanting to provide a Benefit for participation in any internal survey, focus group, or other opinion-based interaction must contact the Conflicts of Interest Office for guidance.
- D. Institutional Personnel must not accept any Benefit such as food, gift baskets, or similar items from any vendor, non-vendor, or industry representative except as outlined in Section 7.2 below.
- E. Institutional Personnel who exercise discretion in connection with contracts, purchases, payments, claims, or other transactions must not solicit, accept, or agree to accept any Benefit from a person or entity that they know is interested or likely to be interested in any contract, purchase, payment, claim, or transaction involving the exercise of their discretion.
- F. Institutional Personnel must not use UTMB time or resources to solicit Benefits, or gratuities, for personal gain or for the benefit of friends or family members.

- G. Institutional Personnel who receive a prohibited Benefit must attempt to return the Benefit to the donor and inform the donor of the prohibition.
- H. Institutional Personnel unable to return a Benefit should contact the Conflicts of Interest Office within the Office of Institutional Compliance (coi.in@utmb.edu) for guidance.

VI.2 Benefits from Patients or Patients' Family Members

- A. Institutional Personnel must not accept any Benefit, including but not limited to, Cash or cash equivalents, from patients or their family members.
- B. If declining a Benefit from a patient or family member is not advisable or in the best interest of the patient, it may be accepted in the following circumstances:
 - i. The Benefit is an obvious and unsolicited gratuity given not to secure preferential treatment or influence care;
 - ii. The donor is likely to feel offended or rejected if the Benefit is declined; or
 - iii. Declining the Benefit is likely to have an adverse effect on the relationship with the donor.
- C. Faculty members who are a part of the MSRDP Faculty Practice Plan-School of Medicine must transfer permissible gifts of Cash or cash equivalents received from patients or patients' family members, in the context of patient-care activities, to the Institutional Trust Fund.
- D. Institutional Personnel unable to decline or return an impermissible Benefit should contact the Conflicts of Interest Office within the Office of Institutional Compliance (coi.in@utmb.edu) for guidance.
- E. Departments may choose to further restrict acceptance of Benefits. Each department is responsible for implementing and enforcing its own expectations and procedures with respect to acceptance of Benefits.

VII. Benefits from Vendors, Industry, and Outside Entities to Institutional Personnel

7.1 Prohibited Benefits

- A. Institutional Personnel must not accept Cash or cash equivalents provided by a third-party business, or a representative thereof, unless otherwise permitted by IHOP 06.05.03.
- B. Institutional Personnel must not accept any Benefit, including but not limited to, travel, lodging, gifts, and food related to any activity except as provided in Section 7.2 below.
- C. Institutional Personnel must not accept any Benefit, including but not limited to, travel, lodging, gifts, and food related to an activity that is sales, marketing, or promotional in nature.
- D. Any Institutional Personnel who may play a role in the determination or selection of a vendor must not accept any Benefit from the outside entity seeking to become a vendor.

- E. Institutional Personnel must not accept any Benefit from a third-party business, or a representative thereof, for prescribing, advocating, or marketing of products or services or to provide any opinion or evaluation on a product or service, unless otherwise permitted by IHOP 06.05.03.
- F. Institutional Personnel must not accept any Benefit or gift to attend entertainment events, sporting events, trips to vacation resorts, and other similar activities provided by a third-party business or representative thereof.
- G. Departments may choose to further restrict acceptance of Benefits under this Section. Each department is responsible for implementing and enforcing its own expectations and procedures with respect to acceptance of Benefits.

7.2 Acceptable Benefits

- A. Institutional Personnel must not accept any food and beverages of any value provided by a third-party business or its representative. However, UTMB Departments may accept unrestricted educational grants from vendors or industry, so long as the UTMB Department has full control over the use of the funds.
- B. Institutional Personnel may accept refreshments of a modest amount (e.g., non-specialty coffee, donuts, or kolaches) but not meals, in conjunction with a scheduled appointment with vendors or industry to provide on-campus post-purchase product training, advising, teaching, and/or support, if consistent with departmental policy.
- C. Institutional Personnel may accept travel, lodging, and related meals to attend an off-campus conference or meeting only if the Institutional Personnel lectures, presents a poster or a paper, participates in a panel discussion, speaks in a session at the conference or meeting, or it is otherwise important to the mission and purpose of the institution as determined by the IO-COI.
- D. Institutional Personnel may accept travel, lodging, and modest meals from a current UTMB vendor for purposes of off-campus post-purchase product or service training, advising, teaching, and support.
- E. The IO-COI, or his/her designee, has discretion to permit other Benefits deemed related to UTMB's mission and purpose, in collaboration with the appropriate department administrator (ASG), as needed.

VIII. Benefits from Vendors, Industry, and Outside Entities to UTMB

8.1 Benefits to UTMB, Generally

- A. UTMB is permitted to accept Benefits that are related to its mission and purpose and those that are organized by UTMB's Development Office.
- B. For purposes of this Section, UTMB includes any department, center, institute, school, or similar UTMB division.

- C. The IO-COI, or his/her designee, has discretion to permit other Benefits that are educational in nature or that are related to UTMB's mission and purpose, in collaboration with the appropriate department administrator (ASG), as needed.

8.2 Prohibited Benefits

- A. UTMB and Institutional Personnel must not accept any Benefit to subsidize the costs of any on-campus or off-campus non-educational or non-scientific event. Events organized and/or hosted by the Development Office are not subject to this sub-section.
- B. Departments may choose to further restrict acceptance of Benefits under this Section. Each department is responsible for implementing and enforcing its own expectations and procedures with respect to acceptance of Benefits.

8.3 Acceptable Benefits

- A. Gifts of food provided to UTMB are permissible only if provided as part of an educational or other campus-wide event deemed to be a part of an overall program pre-approved by institutional leadership and important to the institution's mission.

IX. Benefits from UTMB to Institutional Personnel

9.1 Benefits from UTMB to Institutional Personnel, Generally

- A. UTMB is only permitted to give Benefits that are reasonably related to the accomplishment of its mission and purpose.
- B. For purposes of this Section, UTMB includes any department, center, institute, school, or similar UTMB division.
- C. UTMB may provide a reasonable Benefit to Institutional Personnel that is a part of an organized program pre-approved by institutional leadership and which furthers the mission or purpose of the institution.
- D. UTMB may provide a retirement or celebratory gift to Institutional Personnel so long as it is not in the form of Cash or cash equivalents and is under \$100 in value.

X. Honoraria

10.1 Acceptable Honoraria and Reimbursement

The following Honoraria may be accepted only to the extent that they are not prohibited under subsection 10.2

- A. Honoraria are permissible if related to an Institutional Personnel's particular area of expertise and not due to his/her official position with UTMB.
- B. Institutional Personnel may accept honoraria or a nominal gift from a United States academic institution, federal or state agency, professional service association, non-profit organization, or foundation for services pertaining to the Institutional Personnel's specialty or area of

expertise. Payments from private, for-profit, health-care related industry are not considered honoraria.

- C. Institutional Personnel may be reimbursed by a United States academic institution, federal or state agency, professional service association, non-profit organization, or foundation for transportation, lodging, and meal expenses incurred during his/her active participation in a conference or seminar as a speaker or in some other substantive manner.
- D. Institutional Personnel may retain a permissible honorarium so long as:
 - i. The travel expenses were paid for or reimbursed by an individual or entity other than UTMB (Otherwise, the honorarium must be given to UTMB to offset institutional expenditures);
 - ii. The activity is scholarly or academic in nature and is important to UTMB's mission or is important for faculty or staff development; and
 - iii. Meets the requirements for prior approval set forth in IHOP – 06.05.03 - *Conflicts of Interest, Conflicts of Commitment, and Outside Activities*.

10.2 Prohibited Honoraria

- A. Institutional Personnel must not accept honoraria if the services would not have been requested but for their official position or when the honorarium is offered in lieu of a Benefit that would otherwise be prohibited.

XI. Fundraising and Raffles

XI.1 Fundraising

- A. UTMB's President has authorized the Development Office to serve as the agent for all philanthropic fundraising programs benefitting UTMB per IHOP – 02.06.07 – *Fundraising Projects Benefiting UTMB*.
- B. Student organizations seeking to conduct fundraising activities must be qualified to do so and should contact UTMB's Office of Student Life to ensure compliance with institutional policies and procedures and state law.
- C. Non-student groups wanting to solicit funds or engage in fundraising activities should contact the Development Office regarding the permissibility to do so.

XI.2 Raffles

- A. Raffles are generally prohibited pursuant to Texas state law. See definition below.
- B. An unauthorized Raffle is considered gambling under the Texas Penal Code.
- C. Conducting an unauthorized Raffle is a Class A misdemeanor. Participating in an unauthorized Raffle is a Class C misdemeanor.

XII. Violations

Failure to comply with this policy is grounds for disciplinary action up to and including termination of employment in the case of employees and suspension or expulsion in the case of students. Additionally, civil and criminal penalties may apply under certain circumstances.

XIV. Definitions

Benefit: Anything of value including Compensation or any other form of advantage as may be determined by the Institutional Official for Conflicts of Interest (IO-COI), or his/her designee, that is reasonably regarded as valuable or providing a monetary gain or advantage, including financial or monetary gains to other persons or entities in which the beneficiary has a direct and substantial interest. Examples of Benefits include, but are not limited to, Cash; gifts; awards; transportation and lodging; food and beverages; tickets to entertainment and sporting events; and honoraria.

Cash: any currency, check, money order, or cash equivalent such as gift cards.

Compensation: Any form of existing or potential fiscal advantage, regardless of whether the value is readily ascertainable including, but not limited to, salary from an entity other than UTMB and any other form of payment for services, such as consulting fees; retainers; honoraria; intellectual property rights or royalties; Ownership Interests; or promised, deferred, or contingent interests; or any other form of Compensation as determined by the Institutional Official for Conflicts of Interest (IO-COI), or his/her designee. Compensation also includes sponsored travel or travel reimbursement.

Honorarium: A payment for a service, such as giving a speech or presentation, or serving on a discussion panel.

Institutional Official for COI (IO-COI): The conflicts of interest official designated by UTMB as the responsible individual for determining whether Institutional Personnel have violated this policy and other institutional conflicts of interest policies and for implementing remedial measures to ensure that a Conflict of Interest or a Conflict of Commitment is managed, reduced, or eliminated.

Institutional Personnel: All persons formally affiliated with UTMB and/or officially engaged in institutional activities for or on behalf of UTMB including, without limitation, employees, faculty, staff, students, Correctional Managed Care (CMC) workforce members, contractors, visiting scientists, volunteers, and public members of institutional committees and advisory boards.

Institutional Responsibilities: Any academic or professional responsibility of an individual subject to this policy on behalf of the institution, including employment duties such as research, research consultation, teaching, professional practice, outreach, institutional committee membership, and service on an institutional research committee or panel.

Outside Activity: Any uncompensated board service or other activity performed for which Compensation is received, other than fulfilling academic or employment obligations to UTMB. This includes, but is not limited to, distance teaching; any work for a third party, such as supervising, consulting, or advisory services; or other employment for which Compensation, regular or occasional, is received.

Raffle: The award of one or more prizes by chance at a single occasion among a single pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize.

XIII. Relevant System Policies and Procedures

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

XIV. Related UTMB Policies and Procedures

- [IHOP - 06.05.01 – Research Conflicts of Interest](#)
- [IHOP - 06.05.03 – Individual Conflicts of Interest, Conflicts of Commitment, and Outside Activities](#)
- [IHOP - 06.05.04 – Institutional Conflicts of Interest](#)
- [IHOP - 06.05.06 – Code of Ethics and Standards of Conduct for State Employees](#)

Dates Approved or Amended

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| 02/19/2014 | 02/20/2014 |
| 04/08/2019 | 02/12/2015 |
| | 03/06/2017 |
| 06/29/2022 | |

XV. Contact Information

Conflicts of Interest Office
 Office of Institutional Compliance
coi.in@utmb.edu