



**Minnesota**  
STATE COLLEGES  
& UNIVERSITIES

# Human Resources Guideline & Interpretation

## Managing Conflicts of Interest for Presidents and Cabinet Members

### PER0005

**Purpose:** This guideline serves to describe the process by which presidents and chancellor's cabinet members should manage potential conflicts of interest.

**Affects:** All system colleges, universities, and the office of the chancellor

**Authoritative References:** Personnel Plan for Minnesota State Colleges and Universities Administrators; Code of Ethics for Employees in the Executive Branch, Minnesota Statutes, sections [43A.38](#) & [43A.39](#).

**Required Forms:** None

**Responsibility for Implementation:** Presidents and members of the Chancellor's cabinet are responsible for requesting approval as described below.

**Attachments:** None

#### **Introduction:**

It is vitally important for the leaders of the Minnesota State Colleges and Universities (MnSCU) to be present and active in communities surrounding their campuses. A common approach to achieving this presence is participation on boards of nonprofit or other organizations, or investment in community ventures. Representation on local boards provides opportunities for community leaders to get to know our MnSCU leaders. It also allows MnSCU leaders to bring their expertise and skills to the community in a meaningful way, to inform communities about the contributions made by our institutions, and to share concerns with members of the community. Board participation also may be a valuable avenue for learning about the needs of communities, and how MnSCU might address them.

While participation in for-profit ventures may pose particular conflict challenges for top level system administrators, participation on nonprofit boards also may conflict with leaders' responsibilities. When seeking ways to engage in community concerns, the positive benefits of such associations must always be measured against the ethical standards established by state law in the Code of Ethics for Employees in the Executive Branch, Minnesota Statutes sections 43A.38-.39, and other state law. As leaders of a public body, it is imperative that the actions of MnSCU administrators do not present either perceived or

actual conflicts of interest that could result in a public perception that decisions on behalf of the system are not being made objectively and without self-interest.

The State Code of Ethics provides, in part:

*Subd. 5. **Conflicts of interest.** The following actions by an employee in the executive branch shall be deemed a conflict of interest and subject to procedures regarding resolution of the conflicts, section 43A.39 or disciplinary action as appropriate:*

- a) use or attempted use of the employee's official position to secure benefits, privileges, exemptions or advantages for the employee or the employee's immediate family or an organization with which the employee is associated which are different from those available to the general public;*
- b) acceptance of other employment or contractual relationship that will affect the employee's dependence of judgment in the exercise of official duties;*
- c) actions as an agent or attorney in any action or matter pending before the employing agency except in the proper discharge of official duties or on the employee's behalf; or*
- d) the solicitation of a financial agreement for the employee or entity other than the state when the state is currently engaged in the provision of the services which are the subject of the agreement or where the state has expressed an intention to engage in competition for the provision of the services; unless the affected state agency waives this clause.*

If the employee believes there is a potential conflict of interest, it is the employee's duty to avoid the situation that would create the conflict. Minnesota Stat. § 43A.38, subd. 6.<sup>1</sup> Under certain circumstances, it is possible to reassign responsibilities of an employee who has a conflict of interest in order to avoid the conflict, or in extreme cases, to allow the employee to continue the affected activity even though a conflict exists. However, those situations are rare and typically will not be allowed for presidents and cabinet members. Rather, top leadership will be expected to refrain from activities that create a potential conflict and, except in the most unusual and limited circumstances, will not be allowed to shift their duties by transferring responsibility to another employee.

As in the past, presidents and cabinet members are required to submit a request in writing to the chancellor prior to agreeing to any activity that may create a conflict of interest with their positions. The following factors will be considered by the chancellor in determining whether a conflict precludes the activity:

- Whether the leader would be required to be removed from regular, ongoing responsibilities of the position in order to avoid a conflict of interest or appearance of a conflict because the organization does business with the college or university.
  - Whether the organization engages in activities in competition with Minnesota State Colleges and Universities.
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- Whether the activity would require extensive time on a day-to-day or annual basis. While board participation generally must be done using non-work time (such as personal time or annual leave), the amount of personal time required for the activity also will be taken into consideration. (Note: in unusual circumstances, the leader may be participating on a board as part of the individual's official duties assigned by the Chancellor; such participation must be authorized in writing.)
- Whether a business in which the leader contemplates a financial investment does substantial business (such as providing goods or services) directly with the college or university that will affect the leader's independence of judgment in the exercise of official duties.


*Subd. 6. **Determination of conflicts of interest.** When an employee believes the potential for a conflict of interest exists, it is the employee's duty to avoid the situation. A conflict of interest shall be deemed to exist when a review of the situation by the employee, the appointing authority or the commissioner determines any one of the following conditions to be present:*

- a) the use for private gain or advantage of state time, facilities, equipment or supplies or badge, uniform, prestige or influence of state office or employment;*
- b) receipt of acceptance by the employee of any money or other thing of value from anyone other than the state for the performance of an act which the employee would be required or expected to perform in the regular course or hours of state employment or as part of the duties as an employee;*
- c) employment by a business which is subject to the direct or indirect control, inspection, review, audit or enforcement by the employee;*
- d) the performance of an act in other than the employee's official capacity which may later be subject directly or indirectly to the control, inspection, review, audit or enforcement by the employee.*

Presidents and the chancellor's cabinet members may direct questions about application of these guidelines to the vice chancellor for human resources; other campus officials should direct questions to their president.

The above considerations also apply to other system employees. However, in some instances, the college, university or Office of the Chancellor may determine that the benefits of the employee's participation on a board merit reassignment of duties so that any potential conflict of interest is avoided.

**Approved: July 29, 2005**  
**Revised: February 9, 2009**

  
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**Vice Chancellor, Human Resources**

February 9, 2009  
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**Date**