

## SEARCH COMMITTEES AND THE CONFLICT OF INTEREST LAW 09/10/2019

As a state employee, a search committee member may not participate on a search in which a member of their immediate family is being considered for hire (this includes parent, child, sibling, spouse, spouse's parents, spouse's children and siblings). At the outset of search process, search committee members must contact Human Resources immediately if they know an applicant and provide information with regard to the nature of the relationship. Human Resources will work with the employee to determine which section of the Conflict of Interest Law applies to their disclosure (see sections below) and what the course of action should be taken:

- removal from the search committee
- filing of the disclosure form (Disclosure of Appearance of Conflict of Interest)
- submitting a brief written notification to the search chair

If a determination cannot be made, the employee should request advice from the State Ethics Commission's "Attorney of the Day" prior to having any further involvement with the search committee.

All conversations and determinations should be documented in writing and filed along with the other documents associated with the search. These materials will be kept on file in Human Resources.

### Excerpts from the Summary of the Conflict of Interest Law for State Employees

**G.L. c. 268A, Section 6 - Financial interest of state employee, relative, or associates; disclosure (d) Self-dealing and nepotism. Participating as a state employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 6)**

A state employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest... A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little... The financial interest must be direct and immediate or reasonably foreseeable to create a conflict.

***Example of violation*** : A state employee promotes his son to a position under his supervision.

A state employee whose duties do not require her to participate in a particular matter may comply with the law by simply not participating in the particular matter in which she has a financial interest. She need not give a reason for not participating.

**G.L. c. 268A, Section 23(B)(3) - Supplemental provisions; standards of conduct (f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited.**

A state employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone, or that she can be improperly influenced. Section 23(b)(3) requires a state employee to consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for the state. If she cannot be fair and objective

because of a relationship or affiliation, she should not perform her duties. However, a state employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

**(g) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))**

State employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

**To contact the "Attorney-of-the-Day" (617) 371-9500 or (888) 485-4766**

**Link to the State Ethics Commission's Attorney of the Day Online request form:**

<http://www.mass.gov/ethics/commission-services/request-advice.html>

**To request an informal written opinion from the Legal Division:**

Please include all relevant facts and a specific question. You generally will receive an informal written advisory opinion from the Legal Division within 30 days. Please mail your request to:

State Ethics Commission  
Legal Division  
One Ashburton Place, Room 619  
Boston, MA 02108.

The Legal Division gives advisory opinions pursuant to G.L. c. 268B, § 3(g) and 930 CMR 3.01.

**WESTFIELD STATE UNIVERSITY**  
**CONFIDENTIALITY AND CONFLICT OF INTEREST AGREEMENT FOR SEARCH COMMITTEES** (11/13/2019)

As a member of the search committee for \_\_\_\_\_, I understand that the ultimate success of this search and the integrity of the university depend on a search that is conducted in an impartial, ethical and professional manner. As a member of this search committee, I hereby agree to the following:

- I understand that the search committee's role is always advisory and that the responsibility for hiring rests with the area vice president, who has the ultimate authority to select/approve the finalist.
- I agree that as a state employee, I must not participate on a search committee in which a member of my immediate family is being considered for hire (this includes parent, child, sibling, spouse, spouse's parents, spouse's children and siblings) and I will remove myself from the committee.
- At the outset of the search process, I must notify the committee chair by email if I personally know a candidate who has applied for the position and whether I am able to judge that person and the entire pool without bias.
- I acknowledge that all forms of information concerning the applicant pool are confidential and agree to permanently protect the identity of all applicants.
- I agree to maintain confidentiality about all search discussions, both during the search process and after its completion.
- I agree to privately notify the search committee chair if I have knowledge that indicates that a candidate is unsuitable for hire even if there is no record to support this. The search chair must then contact the Office of Human Resources, for guidance.
- I acknowledge that the search chair is only authorized person to speak on behalf of the search committee. However, I may disclose information that has been disclosed publicly by the search chair regarding the process and status of the search.
- At the conclusion of the search, I agree that I will submit my notes and rating forms to the search chair who will forward them to the Office of Human Resources.
- I understand that my signed confidentiality agreement is part of the search and will be forwarded to the human resources department at the conclusion of the search.
- I understand that if I breach any of these obligations or fail to act in a professional manner, I may be removed from the search committee and that if removed from the committee, all the terms of this agreement are still applicable and binding.
- I acknowledge receiving the following documents: 1) A summary of those sections of the Conflict of Interest Law that apply to the search process with contact information for the State Ethics Commission and 2) the Disclosure of Appearance of Conflict of Interest form.

**I have read, understand and agree to abide by all of the terms of this agreement, as a condition of my service as a member of the search committee.**

Signed \_\_\_\_\_

Date \_\_\_\_\_

Name (Print): \_\_\_\_\_

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