

**PIERPONT COMMUNITY & TECHNICAL COLLEGE**

**Board of Governors Policies and Procedures  
PP-2007**

**SHORT TITLE:** ETHICS, CONFLICTS of INTEREST, and CONFLICTS of COMMITMENT

**REFERENCE:** West Virginia Code § 18B-1-6, 6B-2-5(L)

**EFFECTIVE:** May 18, 2023

**AMENDED:** February 21, 2023

**REPEALED:**

**REVIEWED:**

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**SECTION 1. PURPOSE**

- 1.1 Scope: This policy implements guidelines in accordance with the West Virginia Governmental Ethics Act. All Faculty, Staff, members of the Board of Governors, Volunteers, and students with an employment relationship with the College are responsible for sustaining the highest ethical standards through values of integrity, honesty, and fairness in their teaching, research, service, and business practices. This policy provides the College's guidelines regarding real and perceived Conflicts of Interest. It also provides guidelines that identify when Pierpont Faculty and Staff may enter into Consulting Arrangements with third parties outside of the scope of their employment with the College. Faculty on less than twelve-month appointments shall continue to comply with the Ethics Act during the months between their appointment terms.
- 1.2 **Applicability of the Ethics Act:** All officials, administrators, and employees of the College – including members of the Board of Governors, the President, and all faculty, non-classified staff, classified staff, and student employees – are subject to the Ethics Act as found at W. Va. Code § 6B-2- 1, et seq. and its implementing legislative rules (including without limitation 158 C.S.R. 1, 3, 6, 7, 8, 19, and 20). However, employees of public institutions of higher education who are engaged in teaching, research, consulting, or publication activities in their fields of expertise with public or private entities and thereby derive private benefits from such activities shall be exempt from the prohibitions against use of public office for private gain, solicitation of gifts, and interests in public contracts when the activity is approved as a part of an employment contract or has been approved by the employee's department supervisor or the president of the institution. See, W. Va. Code § 6B-2-5(n). This is a very narrow exemption, the application of which must be approved by the President in accordance with this policy.

**SECTION 2. APPROVAL of ACTIVITY**

- 2.1 The President's or President's designee's approval of an exemption from the Ethics Act or a request for an outside Consulting Arrangement shall be added to the employee's employment contract.
- 2.2 The President's or President's designee's approval granted pursuant to this policy may be revoked upon reasonable notice to the employee.
- 2.3 Only the President or President's designee may approve exemptions from the Ethics Act or approve outside Consulting Arrangements under this policy. Such delegation of authority by the president shall be in accordance with the needs of the college but in no case shall such delegation be at an authority level lower than a departmental chair, director, or other similar department supervisor.
- 2.4 The President or President's designee may grant an exemption from the Ethics Act or approve an outside Consulting Arrangement on a case-by-case basis or, when such activities are common within the institution, a department or other category or grouping of employees, to all of the institution's employees or any subgrouping thereof. Such approvals shall be added as addenda to all affected employees' contracts or noted, as appropriate, in the employees' personnel files.
- 2.5 The institution shall establish appropriate procedures for the review and approval of those employee requests for exemption from the Ethics Act and requests for approval of outside Consulting Arrangements.
- 2.6 Disclosures required by this policy are personal in nature and they shall be kept confidential, as permitted by law.

### **SECTION 3. SOLICITATION of GIFTS**

- 3.1 Unless otherwise restricted or prohibited by one's supervisor or the President or President's designee, employees may solicit gifts or donations which directly benefit the institution. Solicitations on behalf of a particular department, school or the Pierpont Foundation is solicitation on behalf of or for the benefit of the institution.
- 3.2 Permissible solicitations shall include but not be limited to the following, even though the soliciting employee may work in a position which will be directly or indirectly supported thereby:
  - 3.2.1 Grants from governmental agencies, foundations, corporations, or individuals to the institution to support teaching, research, publication or service activities of the institution;

- 3.2.2 Contracts with governmental agencies, foundations, corporations, or individuals to the institution to support teaching, research, publication or service activities of the institution;
- 3.2.3 Donations from foundations, corporations, or individuals to the institution to support teaching, research, publication or service activities of the institution.
- 3.3 Support for teaching, research, publication and service activities include, but are not limited to, such normal and regular institutional needs as support for salaries; scholarships; capital improvements or repairs; and classroom, laboratory, athletic, medical, scientific and other similar equipment supplies.

#### **SECTION 4. USE OF PUBLIC OFFICE FOR PRIVATE GAIN**

- 4.1 So long as an employee complies with this policy in seeking approval of a waiver from the Ethics Act or approval of a request for outside Consulting Arrangement, the employee's activity will not be considered inappropriate use of an employee's public office (position) or the prestige of that office for one's own private gain or that of another person.
- 4.2 When an employee of the College uses his or her knowledge and personal prestige for private gain without the use of the employee's public office, then there is no requirement to obtain an exemption under this policy.
- 4.3 The College President or the President's designee may grant the employee an exemption from the Ethics Act related to use of public office for private gain, gifts, and interests in public contracts if the employee is engaged in teaching, research, consulting, or publication activities in his or her field of expertise as an author, speaker, consultant, or through other approved activities such as service on the board of an outside agency or business.
- 4.4 When considering an employee's request for an exemption from the Ethics Act or request for approval of an outside Consulting Arrangement, the President or the President's designee shall consider the following:
  - 4.4.1 Whether the employee brings to his/her position his/her own unique personal prestige which is based upon his/her own intelligence, education, experience, skills and abilities, or other personal gifts or traits.
  - 4.4.2 Whether such activity is customary and usual within the field;
  - 4.4.3 Whether the institution derives any benefit through prestige or otherwise from the activity;

- 4.4.4. Whether the institution expects or anticipates that the employee will gain financially from the activities which are not a part of the employee's required employment activities;
  - 4.4.5 Whether the employee's activity will increase his/her personal or professional development or will lend service or benefit to the nation, state or community;
  - 4.4.6 Whether the outside activity will interfere with or create an overriding conflict with the employee's responsibility to the institution or will interfere with the satisfactory performance of the employee's institutional duties.
  - 4.4.7 Whether the employee is engaged in teaching, research, consulting, or publication activities in his or her field of expertise with public or private entities.
- 4.5 An employee's disclosure of his or her position, title, and work history with Pierpont or any other public college or university in West Virginia in the promotion of his or her's private activities is exempt from the prohibition against the use of prestige of public office for a private gain so long as the President's or the President's designee's has approved the employee's request to engage in such activity in accordance with this policy. However, in these cases the employee shall make clear to the outside entity the fact that he or she is not representing the institution but is speaking as a private citizen. Employees may not use College-owned supplies, equipment, or other resources for personal projects or outside Consulting Arrangements. College Employees may not use their subordinates to work on personal projects or outside Consulting Arrangements during work hours or compel them to do so on their own time. Any misuse of Pierpont resources is prohibited unless that use is de minimis, that is, involving only an insignificant amount of time, funds, supplies, personnel, or equipment.
- 4.6 An employee acting in accordance with an exemption from the Ethics Act prohibitions, or under any other conflicts in this rule, or performing an outside Consulting Arrangement approved in accordance with this policy is not, during such performance, an agent of Pierpont or the State of West Virginia.
- 4.7 No exemption granted in accordance with this policy shall be deemed to constitute a waiver by the institution of any lawful contractual provision in the employment contract of any full or part-time employee of Pierpont.

## **SECTION 5. INTERESTS IN PUBLIC CONTRACTS**

- 5.1 The Ethics Act prohibits any College Officials or employees from having a financial interest in any contract, purchase, or sale over which their position at the College gives them control, unless the Officials' or employee's interest in the contract is limited as provided in W. Va. Code § 6B-2(d)(2). This prohibition extends to contracts in which the College Official's or Employee's Family

Members have a financial interest, as well as to any business with which the College Official or Employee or their Family Members are associated. Each employee or Official shall disclose any interest the Official or employee or any member of the Official's or employee's immediate family may have in the profits or benefits of a contract which the employee may have direct authority to enter into or over which the Official or employee may have control.

5.2 The President or the President's designee may review any interest an official or an employee or any member of the Official's employee's family may have and determine what, if any, restrictions or limitation will be placed on the employee's activities concerning the contract.

5.3 Without limitation, the following are examples of interests in public contracts which may be permitted:

5.3.1 The employee is the author and copyright owner of a leading textbook in his/her teaching field and may wish to require the use of the textbook by his/her students;

5.3.2 The employee is the inventor and patent owner of a scientific tool necessary for research in his/her field;

5.3.3 The employee is an expert in a particular field his or her's expertise is sought after by other professionals, institutions, or governmental agencies and providing such consulting services is not part of the employee's duties to the institution.

5.4 A Pierpont Employee may not endorse a particular product or business, including case studies completed by a vendor. A commercial endorsement of a product or business is only permissible when it results in an overriding public benefit. Sponsorship agreements entered into on behalf of the College are deemed to have an overriding public benefit within the meaning of the Ethics Act.

5.5 Dual Compensation. No Pierpont Employee may receive compensation from two sources of state, county, or municipal government for working the same hours, except under certain limited circumstances. However, Faculty and Non-Classified Staff can engage in an outside Consulting Arrangement with a state, county, or municipal government so long as they receive approval from the President or President's designee to do so in accordance with this policy.

## **SECTION 6. PRESIDENT AND CHAIR**

6.1 The Chair of the Pierpont Board of Governors shall and approve or deny the President's request for exemption from the Ethics Act or to engage in an outside Consulting Arrangement in accordance with this policy.

## **SECTION 7. CONFLICT OF INTEREST AND CONFLICT OF COMMITMENT**

7.1 All full-time Pierpont Employees owe their primary professional allegiance to the College. All Pierpont Officials and Employees shall comport themselves at all times so as to avoid Conflicts of Interest and Conflicts of Commitment.

### **7.2 Conflicts of Interest**

7.2.1 A Conflict of Interest occurs when

7.2.2 The Appropriate College official shall determine whether a conflict of interest or the appearance of a conflict of interest exists objectively on a case-by-case basis. Because the appearance of a conflict of interest can be as damaging or detrimental as an actual conflict of interest, for the purposes of this policy, apparent conflicts of interest are treated the same as actual conflicts of interest.

7.2.3 Employees shall promptly notify their department manager or department chair of any outside employment, either paid or unpaid. Employees also shall promptly notify their department manager or chair if they are being compensated by a non-profit or for-profit organization or company as a consultant or independent contractor.

7.2.4 Faculty shall promptly notify their dean or department chair and the Provost and Staff shall promptly notify their supervisor and the Chief Human Resources Officer if any of the following apply:

7.2.4.a The employee is an executive officer, director, member of a governing body, partner, or owner of any non-profit or for-profit organization or company.

7.2.4.b The employee has a financial interest in an organization or company with which the College is contemplating a transaction or business relationship or has a business relationship, assuming the employee is aware of the transaction or business relationship. In any event, the employee shall make the requisite notification as soon as he or she becomes aware of the actual or contemplated transaction or business relationship. This includes a financial interest in any organization or company that serves as, or is being considered to serve as, a vendor, supplier, or contractor to the College.

7.2.5 If the appropriate College Official determines a conflict of interest exists, the Employee shall take immediate action to satisfactorily resolve the conflict.

### **7.3 Conflicts of Commitment**

7.3.1 A full-time Pierpont Employee's primary commitment of time and intellectual effort must be to the teaching, scholarship, and service missions of the College.

7.3.2 A Conflict of Commitment refers to a situation where an individual engages in external activities, either paid or unpaid, that interferes with his/her primary obligation and commitment to the College. Individuals in the Pierpont community should evaluate and arrange their external interests in order to avoid compromising their ability to carry out their primary obligations to the College, and most conflicts of commitment should generally be avoided or resolved through the exercise of personal judgment or discretion.

#### **7.4 Corrective Actions for Violations**

7.4.1 Any Pierpont Employee who fails to abide by the requirements within this Rule shall be subject to appropriate disciplinary action, up to and including termination, or other disciplinary action as may be appropriate.

### **SECTION 8 OUTSIDE CONSULTING ARRANGEMENTS.**

8.1 **Applicability.** Full-time Faculty and Non-Classified Staff may engage in Consulting Arrangements outside of their employment responsibilities to the College on subjects that are within their area of professional expertise. The provisions of this Section do not apply to part-time Employees, such as Adjunct Faculty, who are not required to seek approval for Consulting Arrangements or other employment that they conduct outside of their part-time employment with the College.

8.2 **Faculty Specific Guidelines.** External activities Consulting Arrangements conducted by a faculty member must be of such nature as to improve effectiveness as a teacher, or contribute to scholarly attainments, or should in some manner serve the interests of the College or of the community. External activities Consulting Arrangements must not distract significantly from primary responsibilities and must not require such extensive absence as to cause the faculty member to neglect course obligations or become unavailable to students and colleagues. External activities Consulting Arrangements must be of such nature and conducted in such manner as will not bring discredit to Pierpont and must not compromise any intellectual property owned by the College. Faculty members should periodically re-examine the nature and extent of their external activities Consulting Arrangements and conscientiously avoid engaging in activities that constitute conflicts of commitment. The Provost or Dean may grant exceptions in extraordinary cases upon recommendation of the appropriate dean. Accordingly, full-time faculty members shall limit the time spent on Consulting Arrangements as follows:

- 8.2.1 Full-time faculty members appointed on a nine-month basis should not normally exceed forty 40 days during the academic year, including holidays.
- 8.2.2 For those full-time faculty members appointed on a 12-month basis and those receiving external funding during the summer, time spent on external activities should not normally exceed fifty 50 days per year, including holidays.

**8.3 Staff Specific Guidelines.** Employment outside Pierpont or other activities that could create a conflict of commitment, or the appearance of a conflict of commitment, should be disclosed. Staff members shall disclose to their immediate supervisor any Consulting Arrangement or Outside Activity as outlined in this policy and discussed with the staff member's supervisor to ensure it will not create a conflict of commitment. Hourly paid staff, or part-time exempt staff, shall also disclose and discuss with their supervisor concerning any external obligations so that a conflict of commitment does not arise. Accordingly, external activities must be arranged so that staff members shall arrange any Consulting Arrangements or Outside Activities so as not to interfere with a staff member's his or her primary commitments to the College. External activities must be of such a nature and conducted in such a manner as will not bring discredit to the College and must not compromise any intellectual property owned by the College. Staff members should periodically re-examine the nature and extent of their external activities. Consulting Arrangements and Outside Activities shall be of such a nature and conducted in such a manner as will not bring discredit to the College and must not compromise any intellectual property owned by the College. Staff members should periodically re-examine the nature and extent of their external activities. Consulting Arrangements and Outside Activities and conscientiously avoid engaging in activities that constitute conflicts of commitment. The President or Provost or the President's designee may grant exceptions to this policy in extraordinary cases upon recommendation of the Conflicts of Interest Committee in accordance with this policy upon request of the staff member and for good cause shown.

#### **8.4 Guidelines for Outside Consulting Arrangements.**

- 8.4.1 Pierpont Faculty and Staff engaging in outside Consulting Arrangements are not permitted to use the College name, logo, or marks. However, the Pierpont Faculty and Non-Classified Staff may use the College name to convey biographical information.
- 8.4.2 Pierpont Faculty and Staff are prohibited from using College resources, including but not limited to College email and electronic devices, the individual's office, and other College Employees' time, in carrying out their responsibilities under their outside Consulting Arrangements, unless the use is de minimis in accordance with the provisions of the Ethics Act. In no event may an Employee engaged in a Consulting Arrangement use or compel subordinate employees to assist them in such endeavor.
- 8.4.3 An individual cannot use College resources to advertise or endorse their Consulting Arrangements.



## 8.5 Approval of Outside Consulting Arrangements.

8.5.1 Prior to agreeing to any outside Consulting Arrangement, an individual must Employee or Official shall submit a Consulting Arrangement Approval Request Form to the dean of their school or the Provost. If an individual Employee or Official reports directly to the President, the Employee or Official shall submit the Request Form to the President must approve the Form.

8.5.2 The individual must Employee or Official shall fully complete the required Form and provide other reasonable information to the dean or Provost upon request. At minimum, the Form must include a description of the Consulting Arrangement, the entity with whom the arrangement is with will be made, and the anticipated time commitment for the arrangement.

8.5.3 Upon review, the Dean, Provost, or President shall determine if the request is appropriate, does not constitute a conflict of commitment or create a conflict of interest, and abides by the guidelines provided within this Rule policy.

8.5.4 Should a Dean or Provost deny the request for an outside Consulting Arrangement be denied, the individual Employee or Official may request that decision be reviewed by Pierpont's Conflict of Interest Committee President for a final determination. The final determination of the Conflict of Interest Committee President cannot be appealed.

## 8.6 CONFLICT OF COMMITMENT GUIDELINE REGARDING NON-PIERPONT ONLINE TEACHING

8.6.1 **General Standards.** – Teaching outside of Pierpont presents issues that require special attention because it has the potential to compete with the College's own offerings. In judging the appropriateness of teaching any online course outside the educational mission of the College, Faculty shall consider the time commitment and the potential impact of these activities on the fulfillment of their commitments to Pierpont. In addition, the following special considerations and procedures apply to online courses offered, or reasonably expected to be offered, for academic credit and to online courses providing certifications:

8.6.1.a In determining whether to grant such permission or as guidance for reviewing potential conflicts, the Dean (or the Dean's designee) and faculty should shall consider whether such an online course will impair the instructional offerings of the faculty member's School or other Schools at Pierpont. In making this impairment determination, the Dean and the Faculty may consider the following factors (among others) may be useful to consider, with affirmative answers counting against approval, but no set number of affirmative

answers being conclusive: (i) Is the faculty member one of the primary instructors or a course director in the online course? (ii) Is the online course comparable to any current course at Pierpont? (iii) Is the online course among the courses that Pierpont plans to include in its own offerings in the next two academic years? (iv) Is the online course likely, in fact, to require the instructor to commit to teaching the content exclusively with the online vendor or other institution and not to provide any similar content in another online format?

8.6.1.b **Special Provision for Online Courses for Academic Credit.** – Faculty are not permitted to offer online courses for undergraduate, graduate, or professional degree credit for another education institution or venture except with without first obtaining permission of the faculty member's his or her Dean.

8.6.1.c **Special Provision for Online Courses Providing Certifications.** – Faculty must disclose to the appropriate Dean their plan to teach in online courses that offer certifications to their Dean (or Dean's designee) prior to undertaking such teaching.

## SECTION 9 DEFINITIONS

- 9.1 “Board Member” means individuals actively serving as a Board of Governors member for Pierpont Community & Technical College as appointed under West Virginia Code § 18B-2A-1.
- 9.2 “Consulting Arrangement” means any outside employment, arrangement, or contract where full-time faculty or non-classified staff provides their expertise to a non-Pierpont third party as an independent contractor and in which the expertise is, directly or indirectly, related to the employee's employment or job duties with the College.: Provided, that for full-time employees during their yearly appointment term, such outside Consulting Arrangement must, at a minimum, meet the following requirements:
- 9.2.1 It must further develop the individual professionally or serve the public in an area related to the individual's assignment or professional expertise;
- 9.2.2 It must not constitute a conflict of commitment with the individual's College responsibilities, nor interfere with the individual's teaching, research, or service to the College; and
- 9.2.3 It must not be in conflict with the mission and objectives of Pierpont.
- 9.3 “Consulting Arrangement Approval Form” means a form developed for Faculty and Staff to obtain approval for their outside Consulting Arrangements. This Form can be located at:

- 9.4 "Dean" means any Dean or their designee.
- 9.5 "Employee" means any Faculty and Staff.
- 9.6 "Family Member" means spouse, a person with whom the individual is living with as a partner, any dependent child, dependent grandchild, or dependent parent.
- 9.7 "Institutional Conflict of Interest Disclosure" means a form developed to disclose the potential conflicts of interest or commitment of Pierpont Officials or employees.
- 9.8 "Significant Financial Interest for Institutional Conflicts of Interest" means a financial interest consisting of one or more of the following interests of a Pierpont Official, or Family Member of the Pierpont Official, that reasonably appears related to the College Official's institutional responsibilities:
- 9.8.1 Equity or ownership interests held by the Pierpont Official or a Family Member worth more than Ten Thousand Dollars (\$10,000.00) in the aggregate in any publicly traded, for-profit organization. Excluded are equity interests held in mutual funds or retirement programs.
- 9.8.2 Any equity or ownership interest held in any for-profit organization that is not publicly traded.
- 9.8.3 Service as a member of a board of directors or other governing board of a for-profit organization, including service as a trustee or scientific advisory board member, service as an officer of the organization (whether paid or unpaid) or service as an employee by the Pierpont Official.
- 9.8.4 Payments or a legal right to a payment, including royalty payments, resulting from technology transfer, licensing or any outside business activities that, for any single arrangement, exceeds Ten Thousand Dollars (\$10,000.00) in the aggregate per year.
- 9.9 "Staff" means all Classified Employees and Non-Classified Employees.
- 9.10 "College or Pierpont Official" means Pierpont Board Members, President, Vice Presidents, Assistant Provosts, Deans, Associate and Assistant Vice Presidents and Provosts, Assistant and Associate Deans, and Directors.