Office of the Vice President and General Counsel Memorandum
May 31, 2014

Gifts, Gratuities and Favors-- Standards of Business Conduct

In a number of circumstances, Florida law and UF policies prohibit UF faculty, staff, officials and trustees ("UF personnel") from asking for or accepting gifts, gratuities, and favors ("gift"), which include, for example, meals, food/candy, beverages, travel, entertainment, event tickets, outings (including recreation, event tickets, etc.), items (including floral arrangements, any other item), loans, and favors/benefits/advantages. When in doubt, don’t accept a gift. For guidance and advice, call the General Counsel or Deputy/352-392-1358.

1. Some Key Standards Applying to All UF Personnel In All UF Matters.

   No UF personnel, or no spouse or minor child of UF personnel, may (directly or indirectly) solicit or accept any gift, gratuity or favor of any kind or value if there is an intent—or actual or potential effect—to influence the UF personnel’s official actions or judgments. (See UF Reg. 1.011; s. 112.313 (2), (4), Florida Statutes.)

   • Even without intent to influence a particular decision, intent to create goodwill with someone who can act for UF or recommend UF action—is a kind of intent to influence under the law.

   No one may knowingly, give or offer to UF personnel—and no UF personnel may knowingly solicit, accept, or agree to accept—any gain or advantage (for the UF personnel, or anyone in whose welfare s/he is interested), in order “to [wrongfully] influence” the UF personnel in a UF matter. This applies when the giver believes (or the UF personnel represents) that the UF personnel has authority to act for UF or any of its units—even if that authority (in fact) is lacking. See s. 838.014-016 Florida Statutes.

   • This is a bribe or unlawful compensation or reward for official behavior, and need not involve money or an item that has a monetary value.

2. Purchasing Code of Conduct Applying to All UF Personnel

   All UF personnel are prohibited to solicit, accept, or agree to accept—and any UF vendor/potential vendor is prohibited to offer to any UF personnel—any gratuities (including gifts or favors), of any value or type in connection with a procurement or contract. See UF Reg. 3.020 (8). This rule applies when a procurement is anticipated, planned or underway—and in maintaining the ongoing business relationship with a vendor and its representatives.

   While a procurement is underway, anyone on the procurement committee and the decision-maker may not solicit donations to UF or any of its units from a responding vendor. (To avoid doubt, anyone who influences or participates in the procurement also should not solicit donations from involved vendors.) The only exception is if the UF procurement document states that a gift to UF or a UF unit is required or permitted in proposals or negotiations. This is to avoid a donor relationship from influencing a procurement decision. Board of Governors Reg. 18.001(1)(g).
3. **Some Key Rules Applying--In Policymaking and Procurement--To UF Personnel Who Are Required to File a Form 1 Financial Disclosure With The Florida Ethics Commission.**

   If you are required to file a Form 1 annual financial disclosure with the Florida Commission on Ethics (Reporting Individuals), you are prohibited to accept, directly or indirectly—and executive branch lobbyists (including but not limited to vendors and potential vendors and their paid representatives)\(^1\) and the employers and clients of lobbyists/vendors are prohibited to give you, directly or indirectly—any gifts, gratuities, or favors of any amount or type.\(^2\) See s. 112.3215(6), Florida Statutes (this trumps other laws on the subject). You are also prohibited to solicit a gift, gratuity or favor of any amount or type from current and potential lobbyists/vendors, their employers and clients. See s. 112.3148(3), Florida Statutes.

   - Assume that gifts, gratuities and favors are intended to at least create goodwill, if not to influence particular purchases or policy decisions.

4. **College of Medicine.**

   The College of Medicine has a stringent conflicts of interest and gift policy that relates to gifts from the pharmaceutical, medical device and biotechnology industries. See UF Regulation 5.0764.

5. **Certain Permitted Gifts.**

   If you are not required to file a Form 1— and you are not accepting a gift in connection with a UF procurement/contract and have no involvement in a UF procurement/contract-- then you may accept a gift of up to $100 from a vendor or lobbyist, or its employer or client, or its representatives; and you may accept a gift >$100 if you are also not a “procurement employee” (one with procurement-related (or oversight) duties (or a P-Card) involving >$10,000 in any fiscal year). The gift-giver must file a report quarterly with the Commission on Ethics about any gift of up to $100 given to a procurement employee (other than a relative). See UF Regulation 3.020(8); s. 112.3148(2), (3), (4), (5) and s. 112.3215(6), Florida Statutes.\(^3\) But again, a gift, gratuity or favor is never permitted to influence (or as a quid pro quo for) official action—and is never permitted in connection with a procurement/contract.

   If not a quid pro quo for official action and not in connection with a procurement/contract, gifts of any amount may be given to a UF employee or official by a relative, or from a personal friend (who is not a vendor, potential vendor, or lobbyist/principal of a lobbyist), or (with an annual

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\(^1\) If a vendor or potential vendor merely responds to a UF RFP or ITN, it is not lobbying. But if the vendor/potential vendor proactively seeks business from UF, it is lobbying (unless the contract sought is less than $20,000). Assume registered executive branch lobbyists are lobbying.

\(^2\) Limited exceptions may arguably apply in some circumstances where influence is clearly not sought. For example, water and non-alcoholic beverages and inexpensive, minimal food consumed while working may be necessary to complete UF business and may not be offered to influence official action or garner goodwill. This is distinguished from being taken out or provided a meal before or after a work session, or being provided expensive meals even while working. Consult the UF General Counsel or Deputy General Counsel.

\(^3\) The interaction of these sections is complex so please consult the General Counsel or Deputy General Counsel for advice and do not accept any gift if there is any question about its propriety under UF policy or law.
gift statement for gifts >$100) by UF or a UF DSO for a public purpose. Anyone who is required to file a Form 1--or anyone who is a procurement employee--must report quarterly to the Commission on Ethics about any gift received and believed to be over $100—unless provided by UF or a DSO, in which event the report is annual. See UF Regulation 3.020(8); s. 112.3148 (6), (8), Florida Statutes. Reports are not required for gifts from relatives.

All applicable UF Regulations and laws govern (e.g., standards for research). E.g., see [http://www.generalcounsel.ufl.edu/](http://www.generalcounsel.ufl.edu/) for additional gift guidance and prohibitions against employment/contractual relationships with those doing business with the University.

**Excerpts of Key UF and Board of Governors Regulations**

**Relative** is defined in Section 112.312(21): “an individual who is related to a public officer or employee [UF Trustee or employee] as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step great grandparent, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee.

**Nothing of Value To Influence Official Action.**

UF Reg. 1.011 states: “No employee shall solicit or accept anything of value that is based upon an understanding that the official action or judgment of the employee would be influenced thereby.”

Section 112.313(2) and (4), Florida Statutes, make clear: no gift or other favor may be requested or accepted by any UF personnel—or his or her spouse or minor child—in circumstances where there is an attempt or intent to influence that or any other UF personnel’s official judgments or action.

**Purchasing Standard of Conduct.**

UF Regulation 3.020(8) states: “It shall be a breach of ethical standards for any employee of the University to accept, solicit, or agree to accept a gratuity of any kind, form or type in connection with any contract for commodities or services. It shall also be a breach of ethical standards for any potential contractor to offer an employee of the University a gratuity of any kind, form or type to influence the development of a contract or potential contract for commodities or services.” (Note, that while a gratuity may be pecuniary in nature, it may also be any favor given.)

**Gain or Advantage For Official Action Is Bribery.** Anyone who knowingly, “gives [or] offers” to UF personnel—and any UF personnel who knowingly “solicits, accepts, or agrees to accept”--any “gain or advantage” (to the UF personnel or to anyone in whose welfare s/he is interested)
in order “to [wrongfully] influence [the UF personnel to] perform...any act or omission” that the 
giver believes is—or that the UF personnel represents to be--within his or her UF authority, is 
giving a bribe or unlawful reward for official behavior. This is the case, whether or not the UF 
personnel actually has authority to act for UF in the matter. Sections 838.014-838.016, Florida 
Statutes.

**Purchasing and UF Donations.** Board of Governors Reg. 18.001(1)(g) also prohibits any UF or 
Direct Support Organization employee who is “participating on a procurement selection 
committee for commodities or services from soliciting donations from responding vendors 
during the selection process, except for donations or other benefits expressly stated in the 
procurement document.”