

# Policy Manual



<b>Title: Standard of Ethics and Professionalism for Public Officers and Employees of Agencies</b>	<b>Number:</b> 6Hx2-1.15
<b>Legal Authority: Fla. Statutes 112.311-3173; 112.3187</b>	<b>Page:</b> Page 1 of 9

## GENERAL STATEMENT

The College is committed to the highest standards of excellence and professionalism as an institution that upholds the public trust. Consistent with the Florida Constitution and state statute, the accomplishment of these standards necessitates the establishment of a code of ethics and of professional conduct that reflects these standards.

According to Section B of Article II of the Florida Constitution:

Ethics in Government. – A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse.”

Section 112.311 *Florida Statutes*, clearly sets forth legislative intent and declaration of policy regarding a code of ethics for public officers and employees.

“It is declared to be the policy of the state that public officers and employees, state and local, are agents of the people and hold their positions for the benefit of the public. They are bound to uphold the Constitution of the United States and the State Constitution and to perform efficiently and faithfully their duties under the laws of the federal, state, and local governments. Such officers and employees are bound to observe, in their official acts, the highest standards of ethics consistent with this code and the advisory opinions rendered with respect hereto regardless of personal considerations, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern.”

## THE STANDARD OF ETHICS AND PROFESSIONALISM

The College aims to promote and maintain an organizational environment and culture that promotes ethical conduct by setting high standards for professional conduct. All employees are expected to carry out their duties in a professional manner and in accordance with all College policies and procedures and federal and state law.

The College encourages the exchange of diverse ideas and perspectives within a culture of respect. Consistent with College Policy 6Hx3.34, *Discrimination, Harassment and Retaliation*, all personnel are expected to treat members of the College community equitably with respect and courtesy. In addition, the College maintains policies that define the confidentiality of certain records and transactions such as College Policy 6Hx2-5.03, *Student Records (Family Educational Rights and Privacy Act (FERPA))* and College Policy 6Hx2-3.20, *Employee Records*, must be maintained.

**History:** Revised as Policy 3.30 on June 17, 1980; revised on December 16, 1986; revised and re-numbered on May 21, 1997; revised on October 24, 2017

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*Florida Statutes*, Section 112.311, clearly sets forth legislative intent and declaration of policy regarding a code of ethics for public officers and employees. Each officer and employee shall observe both the spirit and the letter of the provisions of Chapter 112 as set forth below:

It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.

It is also essential that government attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve. Public officials should not be denied the opportunity, available to all other citizens, to acquire and retain private economic interests, except when conflicts with the responsibility of such officials to the public cannot be avoided.

It is likewise essential that the people be free to seek redress of their grievances and express their opinions to all government officials on current issues and past or pending legislative and executive actions at every level of government. In order to preserve and maintain the integrity of the governmental process, it is necessary that the identity, expenditures, and activities of those persons who regularly engage in efforts to persuade public officials to take specific actions, either by direct communication with such officials or by solicitation of others to engage in such efforts, be regularly disclosed to the people.

It is the intent of this act to implement these objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflicts of interest without creating unnecessary barriers to public service.

It is hereby declared to be the policy of the state that no officer or employee of a state agency or of a county, city, or other political subdivision of the state, and no member of the Legislature or legislative employee, shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest. To implement this policy and strengthen the faith and confidence of the people of the state in their government, there is enacted a code of ethics setting forth standards of conduct required of state, county, and city officers and employees, and of officers and employees of other political subdivisions of the state, in the performance of their official duties. It is the intent of the Legislature that this code shall serve not only as a guide for the official conduct of public servants in this state, but also as a basis for discipline of those who violate the provisions of this part.

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It is declared to be the policy of the state that public officers and employees, state and local, are agents of the people and hold their positions for the benefit of the public. They are bound to uphold the Constitution of the United States and the State Constitution and to perform efficiently and faithfully their duties under the laws of the federal, state, and local governments. Such officers and employees are bound to observe, in their official acts, the highest standards of ethics consistent with this code and the advisory opinions rendered with respect hereto regardless of personal considerations, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern.

In addition to the above statutory requirements, all College personnel have a general duty to conduct themselves in a manner consistent with the mission and policies of the College so as to strengthen the public's trust and confidence in the integrity of the College.

## **THE POLICY and THE FACULTY AND STAFF**

The following information outlines the requirements for College personnel with regard to both *Florida Statutes*, Chapter 112.313, referencing Code of Ethics, as well as a general Code of Conduct.

### **Code of Ethics Requirements**

*Florida Statutes*, Section 112.313, further defines standards of conduct for public officers and agency employees. These standards are incorporated into the College policy. To the extent that applicable Florida law, as it may be hereafter enacted or amended, conflicts with the policy, the law will control. If College policy sets a higher standard than applicable Florida law, the higher standard will apply, unless unlawful.

**Solicitation or Acceptance of Gifts.** It is against College policy for any College employee to solicit or accept a gift (see definition of gift) with a value greater than \$100.00 from any person, company or entity currently doing business with the College or is seeking to do business with the College. This includes any person, company or entity that has expressed an interest in doing business with the College whether or not they have applied or responded to a College solicitation. Employee as used in this policy includes the employee or any employee's family member including anyone in the employee's household or for whom the employee is otherwise responsible. No employee shall accept any gift of any value with the understanding that any official action or judgment of the employee would be influenced by the gift.

**Doing Business with One's Agency.** No officer or employee acting in his/her official capacity as a purchasing agent or in any official capacity for the College shall either directly or indirectly rent or lease any realty, goods, or services for the College from any business entity of which he/she or his/her spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or his/her spouse or child, or a combination of them, has a material interest. Nor shall an officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the College.

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**Unauthorized Compensation.** No officer or employee of the College or his/her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer or employee knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer or employee was expected to participate in his/her official capacity.

**Misuse of public position.** No public officer or employee shall corruptly use or attempt to use his/her official position or any property or resource of the College which may be within his/her trust, or perform his/her official duties, to secure a special privilege, benefit, or exemption for himself/herself or others. This prohibition shall not be construed to conflict with *Florida Statutes*, Chapter 104.31.

**Conflicting Employment or Contractual Relationship.** No officer, employee or Board of Trustee member shall have or hold any employment, any contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, the College of which he/she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the College; nor shall an officer or employee have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his/her private interests and the performance of his/her public duties or that would impede the full and faithful discharge of public duties.

**Disclosure of Use of Certain Information.** No officer or employee of the College shall disclose or use information solely gained by reason of his/her official position for his/her personal gain or benefit or for personal gain or benefit of any other person or business entity, unless the information is publicly known.

**Employees Holding Office.** No officer or employee of the College shall hold office as a member of the Board of Trustees while, at the same time, continuing as an officer or employee of the College.

**General or Prevailing Policy.** Each officer and employee shall observe both the spirit and the letter of the provisions of *Florida Statutes*, Chapter 112, Part III.

*Florida Statutes*, Section 112.3173, addresses forfeiture of retirement benefits. Any officer or employee of the College who is convicted of, or whose employment is terminated because of the officer or employee's admitted commission of an offense specified in *Florida Statutes*, Section 112.3173, shall forfeit all retirement benefits pursuant to that statute. The Commission on Ethics shall be notified by the College when the officer or employee is terminated prior to retirement because of the commission of one of the following specified offenses:

- The committing, aiding, or abetting of an embezzlement of public funds.
- The committing, aiding or abetting of any theft from the College.
- Bribery in connection with the employment of an officer or employee.

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- Any felony specified in *Florida Statutes*, Chapter 838, except Chapters 838.15 and 838.16.
- The committing of an impeachable offense.
- The committing of any felony by willfully and with intent to defraud the public, or the College for which he/she acts or by which he/she is employed, of the right to receive the faithful performance of his/her duty as an officer or employee, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself/herself or for some other person through the use or attempted use of the power, rights, privileges, duties, or position of his/her office or employment position.

Grant or contract coordinators and subcontractors are required to disclose all relevant financial interests to Broward College through a Financial Disclosure Form. The grant or contract project director must disclose all relevant significant financial interests held by a spouse or dependent children that may result in conflict within a grant or contract.

If a conflict of interest exists, prior to any expenditure of awarded funds, the College must report any conflicts to the funding source and act to protect the project from bias due to the conflict of interest. Actions may include (1) public disclosure of significant financial interests, (2) monitoring of project activities by independent reviewers, (3) modification of the activity plan, (4) disqualification from participation in all or a portion of the funded activities, (5) divestiture of significant financial interests, or (6) severance of relationships that create actual or potential conflicts.

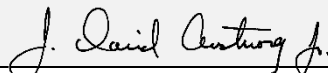
Disclosure information needs to be updated either annually, or more frequently as needed, if project personnel acquire new financial interests. The President of the College is authorized to implement all appropriate procedures to limit or eliminate any potential conflicts of interest. Appropriate monitoring and reporting throughout the grant or contract is essential by the project director or any person responsible for managing the grant to avoid any conflicts.

Persons covered by the requirements of *Florida Statutes*, Section 112.3145, must comply with all applicable provisions of that statute. Persons covered by the requirements of any grant or contract must comply with the applicable requirements of such grant or contract.

## **Code of Conduct Requirements**

The College further defines standards of conduct for employees as conduct which is consistent with the mission and policies of the College and strengthens the public's trust and confidence in the integrity of the College.

The College will investigate or notify an appropriate law enforcement agency of any reports of misconduct, fraud or other illegal acts. These shall include but not be limited to:

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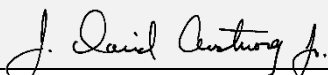


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- Theft or misappropriation of College assets
- Submitting false claims for payments or reimbursement
- Accepting or offering a bribe or accepting gifts or other favors under circumstances that might lead to the expectation that the gift or favor was intended to influence an employee’s decision-making while serving the College
- Accepting a commission from or paying a commission to a third part
- Blackmail or extortion
- Accounting which is not officially recorded or making false or fictitious entries to financial records
- Knowingly creating and/or distributing false or misleading financial reports
- Violation of the College’s policy with the aim of personal gain or to the detriment of the College
- Falsification of application and/or employment records
- Falsification of credentials
- Falsification of time and attendance records
- Falsification of any report or claim

Additionally, the College prohibits bullying or other conduct outside of the normal authorized course, scope, and duties of employment that intentionally inflicts physical hurt or psychological abuse on one or more members of the College community. Such conduct may involve, but is not limited to:

- Unwanted teasing
- Threatening behavior
- Intimidating behavior
- Stalking
- Cyberstalking
- Cyberbullying
- Physical violence
- Theft
- Sexual, sexual orientation, disability, religious, or racial harassment
- Public humiliation
- Destruction of school or personal property
- Spreading of malicious and derogatory rumors or falsehoods
- Misuse of college assets to publish or spread false or derogatory comments (refer to College Policy 6Hx2-8.03 College Communication via Email)

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## IMPLEMENTATION and OVERSIGHT

The President and/or his/her designee has responsibility for implementation and oversight of this policy. The Vice President for Human Resources and Equity has responsibility for oversight of the code of conduct portions of this policy. Policy violations and appeals will be investigated by the Vice President for Human Resources and Equity and/or his/her designee. Employees at all levels are responsible for exercising due diligence and control to prevent, detect and report acts of fraud. Additionally, it is the responsibility of all employees to report any suspicion of fraud without delay according to this policy.

Great care must be taken in dealing with suspected dishonest or fraudulent activities to avoid incorrect accusations, alerting suspected individuals to an investigation underway, treating employees unfairly, and/or making statements that could lead to claims of false accusations or other charges.

## VIOLATION OF POLICY

It shall be the College's practice to identify and promptly investigate or report to an appropriate law enforcement agency any misconduct or fraud committed by employees of the College and when appropriate to pursue legal remedies. The Division of Human Resources and Equity will be responsible for investigating all claims under this policy unless the claim is made against Human Resources, at which time the Office of General Counsel will determine whether an external investigation is required.

Any act of fraud, or other illegal act verified by internal or external investigation, (including the course of routine audits) or pursuant to a criminal conviction, or through written acknowledgment by the employee(s) concerned, may result in consideration of disciplinary action up to and including termination.

- For employees not represented by a labor organization, action will be taken pursuant to the terms and conditions of the relevant employment contract, if applicable, and other College policies and procedures.
- For Faculty represented by a labor organization, action will be taken pursuant to the provisions of any applicable Collective Bargaining Agreement and other College policies and procedures, pursuant to such Agreement.
- For professional technical staff represented by a labor organization, action will be taken pursuant to the provisions of any applicable Collective Bargaining Agreement and other College policies and procedures, pursuant to such Agreement.

Persons who knowingly cover up, obstruct, or fail to report violations of this policy may be subject to disciplinary action up to and including termination. Persons who threaten retaliation or retaliate against a person reporting a suspected fraud may be subject to disciplinary action up to and including termination of employment.

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## DEFINITIONS

Fraud - Engaging in intentionally deceptive acts or making intentionally deceitful statements.

Gift - for purposes of ethics in government and financial disclosure required by law, includes the following:

1. Real property.
2. The use of real property.
3. Tangible or intangible personal property.
4. The use of tangible or intangible personal property.
5. A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.
6. Forgiveness of an indebtedness.
7. Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging, or parking.
8. Food or beverage other than food consumed at a public, professional or community meeting.
9. Membership dues.
10. Entrance fees, admission fees, or tickets to events, performances, or facilities.
11. Services provided by persons pursuant to a professional license or certificate.
12. Other personal services for which a fee is normally charged by the person providing the services.
13. Any other similar service or thing having an attributable value not already provided for Fla. Statute 112.312.
14. Plants, flowers, or floral arrangements.

The state statute indicates that gifts do not include the following:

1. An honorarium or an expense related to an honorarium event paid to a person or the person's spouse.
2. An award, plaque, certificate, or similar personalized item given in recognition of the employee's public, civic, charitable, or professional service.
3. An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization.

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4. The use of a public facility or public property, made available by a governmental agency, for a public purpose.
5. Transportation provided to a public officer or employee by an agency in relation to officially approved governmental business.
6. Gifts provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization.

Grant or Contract Project Director - can include the principal investigator, co-principal investigator, and any other person who is responsible for the design, conduct, coordination, or reporting of a project funded or proposed for funding by a public or private organization. Grant or Contract Project Directors are further defined as (a) the individual with final responsibility for the conduct of research or other activity described in a proposal or an award; and (b) the individual with fiduciary responsibility for an award's management.

Financial Interests - for purposes of disclosure, as defined in *Florida Statutes*, Section 112.3145.

Officer – individual charged with supervision and oversight of resources including members of the Board of Trustees.

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