



UT System Administration Policy Library -- Policy UTS171

## Student Financial Aid Code of Conduct

Responsible Officer: Vice Chancellor and General Counsel

Sponsoring Office: Office of General Counsel

Effective Date: November 3, 2009

Last Reviewed: November 3, 2009

Errors or changes to: [policyoffice@utsystem.edu](mailto:policyoffice@utsystem.edu)

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## CONTENTS

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Policy Statement

Rationale

Scope

Website Address For This Policy

Related Statutes, Policies, Requirements Or Standards

Contacts

Definitions

Responsibilities

Procedures

Special Instructions for Initial Implementation

Forms Tools/Online Processes

Appendix

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## **POLICY STATEMENT**

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This policy provides a Student Financial Aid Code of Conduct. The following entities are required to comply with this policy and the Student Financial Aid Code of Conduct:

- Each UT System institution that participates in an education loan program under Title IV of the federal Higher Education Act of 1965, as amended (P.L. 89-329);
- Each institution that participates in a preferred lender arrangement pursuant to institutional policy adopted in accordance with applicable federal law and regulations; and
- Each employee of a covered UT System institution who is employed in the financial aid office or who otherwise has responsibilities with respect to FFEL Program loans or private education loans.

This policy is adopted in furtherance of UT System's commitment to prohibit conflicts of interest with respect to education loans.

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## **RATIONALE**

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This policy is adopted pursuant to the requirements in the federal Higher Education Act of 1965, as amended (P.L. 89-329), as further amended by the Higher Education Opportunity Act (P.L. 110-315). Additionally, it implements Section 51.9645, Texas Education Code, relating to prohibiting certain activities by financial aid employees.

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## **SCOPE**

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All UT System institutions

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## **WEBSITE ADDRESS FOR THIS POLICY**

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<http://www.utsystem.edu/policy/policies/uts171.html>

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## **RELATED STATUTES, POLICIES, REQUIREMENTS OR STANDARDS**

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<b>UT System Administration Policies &amp; Standards</b>	<b>Other Policies &amp; Standards</b>
	20 U.S.C. Section 1019b (c)(2) 20 U.S.C. Section 1094 (a)(25) and (e) Section 51.9645, Texas Education Code

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## CONTACTS

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If you have any questions about UT System Administration Policy UTS 171, *Student Financial Aid Code of Conduct*, contact the following offices:

Subject	Office Name (not individual name)	Telephone Number (use this format)	Email/URL
Student Financial Aid Code of Conduct	Office of General Counsel	512-499-4462	<a href="http://www.utsystem.edu/ogc/">www.utsystem.edu/ogc/</a>

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## DEFINITIONS

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### **FFEL Program Loan**

A loan made, ensured, or guaranteed under Part B, Title IV, of the federal Higher Education Act of 1965, as amended (P.L. 89-329).

### **Gift**

Any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a *de minimis* amount. The term includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, by payment in advance, or by reimbursement after the expense has been incurred.

### **Lender**

The term includes the following:

- An eligible lender in the Federal Family Education Loan (FFEL) Program for loans made, ensured, or guaranteed under Part B, Title IV, of the federal Higher Education Act of 1965, as amended (P.L. 89-329).
- A private educational lender as defined in Section 140 of the federal Truth in Lending Act.
- Any other person engaged in the business of securing, making, or extending education loans on behalf of the lender.

### **Opportunity Pool Loan**

A private education loan made by a lender to a student attending the institution or to a student's family member that involves a payment, directly or indirectly, by the institution of points, premiums, additional interest, or financial support to the lender for the purpose of the lender extending credit to the student or family member.

### **Private Education Loan**

As the term is defined in Section 140 of the federal Truth in Lending Act, a loan provided by a private educational lender that is not a Title IV loan and that is issued expressly for postsecondary education expenses to a borrower, regardless of whether the loan is provided through the educational institution that the student attends or directly to the borrower from the private educational lender. A private education loan does not include an extension of credit under an open end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by a real property or a dwelling.

### **Revenue-Sharing Arrangement**

An arrangement between an institution and a lender under which a lender provides or issues a FFEL Program loan or private education loan to students attending the institution or to their families, and the institution recommends the lender or the lender's loan products in exchange for the lender paying a fee or providing other material benefits, including revenue or profit sharing, to the institution or an officer or employee of the institution.

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## **RESPONSIBILITIES**

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**Each UT System institution that participates in an education loan program under Title IV of the federal Higher Education Act of 1965, as amended, or that participates in a preferred lender arrangement.**

- Complies with this policy and the Student Financial Aid Code of Conduct.
- Administers and enforces the Student Financial Aid Code of Conduct.

- Annually informs its employees who have responsibilities with respect to education loans of the provisions of the Student Financial Aid Code of Conduct.
- Posts the Student Financial Aid Code of Conduct prominently on its website.

**Each employee of a covered UT System institution who is employed in the financial aid office or who otherwise has responsibilities with respect to FFEL Program loans or private education loans.**

- Complies with the Student Financial Aid Code of Conduct.
- Attends any training sessions on the Student Financial Aid Code of Conduct as required by the institution.

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## **PROCEDURES**

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Each UT System institution that participates in an education loan program under Title IV of the Higher Education Act of 1965, as amended (P.L. 89-329), each institution that participates in a preferred lender arrangement pursuant to institutional policy adopted in accordance with applicable federal law and regulations, and each employee covered by this policy must comply with this policy and the Student Financial Aid Code of Conduct provided by this policy.

Each institution covered by this policy must administer the Student Financial Aid Code of Conduct provided by this policy and must annually inform its employees who have responsibilities with respect to education loans of the provisions of the Student Financial Aid Code of Conduct.

Each institution covered by this policy must enforce the Student Financial Aid Code of Conduct provided by this policy. A violation of the Code of Conduct may result in disciplinary action, including dismissal.

Each institution covered by this policy must post the Student Financial Aid Code of Conduct provided by this policy prominently on its website.

### **Student Financial Aid Code of Conduct**

**1. Conflicts of Interest:** It is the policy of [name of institution] to prohibit conflicts of interest with respect to education loans, including loans made under the Federal Family Education Loan program and private education loans.

**2. Gifts:**

- a. An employee of [name of institution] who is employed in the financial aid office or who otherwise has responsibilities with respect to FFEL Program loans or

- private education loans may not solicit or accept any gift from a lender, guarantor, or servicer of FFEL Program loans or private education loans.
- b. This prohibition applies to a gift to a family member of an employee of [name of institution], or to any other individual based on that individual's relationship with the employee, if the gift is given with the knowledge and acquiescence of the employee, and the employee has reason to believe the gift was given because of the official position of the employee.
  - c. For purposes of this section, "gift" means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a *de minimis* amount. The term includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, by payment in advance, or by reimbursement after the expense has been incurred.
  - d. This section does not prohibit the acceptance of the following:
    - i. standard materials, activities, or programs on issues related to a loan, default aversion, default prevention, or financial literacy, such as a brochure, a workshop, or training;
    - ii. food, refreshments, training, or informational material furnished to an employee of [name of institution] as an integral part of a training session that is designed to improve the service of a lender, guarantor, or servicer of FFEL Program loans or private education loans to the institution if the training contributes to the professional development of the employee;
    - iii. favorable terms, conditions, and borrower benefits on a FFEL Program loan or private education loan provided to a student employed by [name of institution] if comparable to those provided to all students of the institution;
    - iv. entrance and exit counseling services provided to borrowers to meet the responsibilities of [name of institution] for entrance and exit counseling as required by 20 U.S.C. 1092 (b) and (l) if the institution's staff are in control of the counseling (whether in person or electronically), and the counseling does not promote the products or services of any specific lender;
    - v. philanthropic contributions to [name of institution] from a lender, servicer, or guarantor of FFEL Program loans or private education loans that are unrelated to FFEL Program loans or private education loans, or any contribution from any lender, guarantor, or servicer that is not made in exchange for any advantage related to FFEL Program loans or private education loans; or
    - vi. state education grants, scholarships, or financial aid funds administered by or on behalf of a state.

### **3. Advisory board compensation:**

- a. An employee of [name of institution] who is employed in the financial aid office or who otherwise has responsibilities with respect to FFEL Program loans or private education loans or other student financial aid of [name of institution], and who serves on an advisory board, commission, or group established by a lender, guarantor, or group of lenders or guarantors, may not receive anything of value from the lender, guarantor, or group of lenders or guarantors, except as provided by Subsection (b).
- b. This section does not prohibit an employee from being reimbursed for reasonable expenses incurred in serving on the advisory board, commission, or group.

#### **4. Contracting arrangements:**

- a. An employee of [name of institution] who is employed in the financial aid office or who otherwise has responsibilities with respect to FFEL Program loans or private education loans may not accept any fee, payment, or other financial benefit, including the opportunity to purchase stock, from a lender or a lender affiliate as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender relating to FFEL Program loans or private education loans.
- b. This section does not prohibit:
  - i. an employee of [name of institution] who is not employed in the financial aid office and who does not otherwise have responsibilities with respect to FFEL Program loans or private education loans from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans;
  - ii. an employee of [name of institution] who is not employed in the financial aid office but who has responsibility with respect to FFEL Program loans or private education loans from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of FFEL Program loans or private education loans, provided that the employee recuses himself or herself from participating in any decision of the board regarding FFEL Program loans or private education loans at [name of institution]; or
  - iii. an officer, employee, or contractor of a lender, guarantor, or servicer of FFEL Program loans or private education loans from serving on the UT System Board of Regents, provided that the officer, employee, or contractor recuses himself or herself from any decision regarding FFEL Program loans or private education loans at a UT System institution.

#### **5. Stock ownership prohibited:**

An employee of [name of institution] who is employed in the financial aid office or who otherwise has responsibilities with respect to FFEL Program loans or private education

loans may not own stock or hold another ownership interest in a lender, other than through ownership of shares in a publicly traded mutual fund or similar investment vehicle in which the person does not exercise any discretion regarding the investment of the assets of the fund or other investment vehicle.

#### **6. Interaction with borrowers:**

[Name of institution] may not:

- a. for a first-time borrower, assign, through award packaging or other methods, the borrower's loan to a particular lender; or
- b. refuse to certify, or delay certification of, any loan based on the borrower's selection of a particular lender or guaranty agency.

#### **7. Offers of funds for private loans:**

- a. [Name of institution] may not request or accept from any lender any offer of funds to be used for private education loans, including funds for an opportunity pool loan, to students in exchange for [name of institution] providing concessions or promises regarding providing the lender with:
  - i. a specified number of FFEL Program loans or private education loans;
  - ii. a specified loan volume of those loans; or
  - iii. a preferred lender arrangement for those loans.
- b. In this section, "opportunity pool loan" means a private education loan made by a lender to a student attending the institution or to a student's family member that involves a payment, directly or indirectly, by [name of institution] of points, premiums, additional interest, or financial support to the lender for the purpose of the lender extending credit to the student or family member.

#### **8. Staffing assistance:**

- a. [Name of institution] may not request or accept any assistance with call center staffing or financial aid office staffing from any lender, except as provided by Subsection (b).
- b. This section does not prohibit [name of institution] from requesting or accepting assistance from a lender related to:
  - i. professional development training for financial aid administrators;
  - ii. the provision of educational counseling materials, financial literacy materials, or debt management materials to borrowers, provided that the materials disclose to borrowers the identification of any lender that assisted in preparing or providing those materials; or

- iii. the provision of staffing services on a short-term, non-recurring basis to assist [name of institution] with financial aid-related functions during emergencies, including state-declared or federally declared natural disasters, federally declared national disasters, and other localized disasters and emergencies identified by the Secretary of Education.

## **9. Revenue-Sharing Arrangements:**

- a. [Name of institution] may not enter into any revenue-sharing arrangement with a lender.
- b. In this section, “revenue-sharing arrangement” means an arrangement between an institution and a lender under which a lender provides or issues a FFEL Program loan or private education loan to students attending the institution or to their families, and the institution recommends the lender or the lender’s loan products in exchange for the lender paying a fee or providing other material benefits, including revenue or profit sharing, to the institution or an officer or employee of the institution.

## **10. Definitions:**

The following definitions apply in this Student Financial Aid Code of Conduct:

- a. “FFEL Program Loan” means a loan made, ensured, or guaranteed under Part B, Title IV, of the federal Higher Education Act of 1965, as amended (P.L. 89-329).
- b. “Lender” means:
  - An eligible lender in the Federal Family Education Loan (FFEL) Program for loans made, ensured, or guaranteed under Part B, Title IV, of the federal Higher Education Act of 1965, as amended (P.L. 89-329).
  - A private educational lender as defined in Section 140 of the federal Truth in Lending Act.
  - Any other person engaged in the business of securing, making, or extending education loans on behalf of the lender.
- c. “Private Education Loan” means a loan provided by a private educational lender that is not a Title IV loan and that is issued expressly for postsecondary education expenses to a borrower, regardless of whether the loan is provided through the educational institution that the student attends or directly to the borrower from the private educational lender. A private education loan does not include an extension of credit under an open end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by a real property or a dwelling.

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## **FORMS AND TOOLS/ONLINE PROCESSES**

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None

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## **APPENDIX**

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None

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Keywords: academic, students, student loans

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