

1. **Title**

Employee Discount Programs

2. **Policy**

Sec. 1 Purpose. The guidelines are intended to provide broad authorization for the development of Employee Discount Programs in accordance with The University of Texas System and institutional guidelines. They are adopted in accordance with the Board of Regents' *Rules and Regulations*, Rule 80103, Section 2.17, which permits distribution of materials related to Employee Discount Programs as an exception to the prohibition against solicitation provided that the materials are presented by the Office of Human Resources of any U. T. System institution, with the approval of the institution's president, and placed on institution web pages for the purpose of providing education, product and service information, and participant enrollment, in accordance with guidelines promulgated by the Executive Vice Chancellor for Business Affairs.

Sec. 2 Compliance. It is the responsibility of any U. T. System institution ("institution") that offers an Employee Discount Program to ensure that the Program complies with all applicable State and federal laws and regulations, Board of Regents' *Rules and Regulations*, and institutional policies. The offering of a discount by a vendor for a good or service falls within the definition of commercial speech, which may be protected by the First Amendment of the United States constitution. Therefore, the responsibility to comply with applicable federal and State laws includes the requirement that any employee discount plan offered by an institution, directly or through a third party administrator, is designed to ensure that restrictions imposed by the plan on participation by a vendor meets the applicable legal tests for constitutionality.

Sec. 3 Participation Requirements. The institution must adopt and implement Employee Discount Program policies, procedures, and applications and other forms as necessary to ensure that:

- 3.1 all discounts offered by a Provider through a Program constitute an added value or actual discount on the products or services provided;
- 3.2 providers hold all required licenses or other certifications required to provide the products or services they offer within the State of Texas;

- 3.3 providers may not disclaim knowledge of, or responsibility for, the authenticity or legality of the products or services offered through the Program;
 - 3.4 participating providers do not use U. T. System or institutional logos or seals or otherwise imply that participation in the Program is an endorsement of the Provider, product, or service by the U. T. System or the institution. See UTS122, *Guidelines for Web Site Solicitations*;
 - 3.5 participation by a Provider does not create a conflict of interest for U. T. System or the institution including policies and procedures for ensuring that businesses owned or controlled by institutional or U. T. System officers and employees do not participate as Providers; and
 - 3.6 program policies and/or procedures and all communications regarding the program contain clear and specific language that clarifies that participation in the program as a Provider:
 - (a) does not constitute or create a contractual or agency relationship between the Provider and the U. T. System or institution;
 - (b) is separate and distinct from the provision of any services provided by a Provider through a vendor contract with an institution or the U. T. System; and
 - (c) does not create any legal duty or liability on the part of the U. T. System or institution for any actions of a Provider.
- Sec. 4 Employee Participation. The institution's Program must utilize clear and specific disclaimers to avoid creating employee expectations that discount services or products are provided by the institution by including disclaimers that:
- 4.1 neither the institution nor U. T. System is endorsing products or services offered by a Provider through the Program nor are they endorsing the Provider;
 - 4.2 the institution is not responsible for agreements entered into between employees and a Provider or resolving disputes arising between employees or a Provider;
 - 4.3 inclusion of a service or product in the Program is not a guarantee by the institution of the quality of the service or product;

4.4 services and Products do not constitute compensation from the institution to employees; and

4.5 all products, services, and discounts offered must be available on the same basis to all employees of the institution.

Sec. 5 Third Party Administrators. If an institution elects to contract with a third party to offer and/or administer an Employee Discount Program, the institution must ensure that the Program and the third party administrator complies with all of the requirements of this policy.

Sec. 6 Required Approval. Institutions are responsible for obtaining the approval of the president of the institution for all Program material placed on the institution's web page as required by Regent's Rule 80103, Section 2.17.

3. Definitions

Employee Discount Program; Program - any program or plan or offering through which one or more products and services are offered by individuals or companies that provide employee discount programs, merchandise membership programs, credit union and banking programs, or other similar programs.

Participating Service and Product Provider; Providers - a person or company providing a discounted service or product to U. T. System employees through any Employee Discount Program offered by an institution.

4. Relevant Federal and State Statutes

None

5. Relevant System Policies, Procedures, and Forms

None

6. System Administration Office(s) Responsible for Policy

Office of Business Affairs

7. Dates Approved or Amended

August 24, 2005

October 30, 2008

March 1, 2011