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**Salem State University
Financial Conflicts of Interest Policy**

Salem State University

Sponsored Programs and Research Administration

**Policies and Procedures for
Sponsored Programs and Research Administration
Financial Disclosures and Conflicts of Interest**

Declaration of Policy:

To ensure continued public confidence in the University, personnel engaged in extramurally funded work shall act at all times in a manner consistent with their public responsibilities to the University and shall exercise particular care that no detriment to the University results from conflicts between their personal financial interests and the interests of the University. Such interests can threaten – or seem to threaten – the integrity of educational programs and research agendas, the free dissemination of scholarship, and the appropriate use of public resources for public benefit. Accordingly, investigators shall disclose all significant financial interests they may have in extramurally funded work, and shall adhere to any conditions or restrictions imposed by the University to manage, eliminate, or reduce conflicts relating to those interests.

This policy outlines the obligations of University personnel to disclose significant financial interests and the responsibility of the University to review such information and take appropriate steps to manage, reduce, or eliminate related conflicts. Certain financial interests are inherent in the incentive structure of the academic enterprise. Such incentives are not inherently bad and are indeed motivating forces for diligence in research. It is not the intent of this policy to prohibit all extramurally sponsored activities in which investigators hold a more easily defined significant financial interest, however, it is required that these interests be disclosed and that the project be conducted in such a way that such interests do not compromise, or appear to compromise, an investigator's professional judgment in conducting projects or reporting results.

The primary goal of this policy is to promote objectivity in research by establishing standards that provide a reasonable expectation that the design, conduct, and reporting of funded research will be free from bias resulting from investigator financial conflicts of interest and to prevent an employee's activities from adversely influencing Salem State University operations.

Commonwealth of Massachusetts Ethics Commission: This policy is implemented in addition to all requirements of, and does not supersede, the Massachusetts Conflict of Interest Law (MGL c.268A) and Massachusetts Financial Disclosure Law (MGL c.268B). These laws make it unlawful for public officials, public members, and public employees to use their position to obtain an economic interest or to have a financial interest in most any contract or purchase connected with Salem State University unless certain exceptions apply.

Applicability:

This policy and the requirement for financial disclosure apply to all University employees and students who serve as investigators in proposals submitted to external sponsors on or after this date. Collaborators of other institutions must either comply with this policy or provide certification that their institutions are in compliance with Federal policies regarding disclosure of significant financial interests and that their portion of the project is in compliance with their institutional policies.

For matters subject to this policy, to the extent of any conflict between this policy and provisions of MGL c.268A (Massachusetts Conflict of Interest Law) and MGL c.268B (Massachusetts Financial Disclosure Law), MGL c.268A and MGL c.268B shall control.

Nothing in this policy shall be construed to limit or abridge the authority of The President and the Board of Trustees of Salem State University to take such action as they deem appropriate regardless of any action or inaction by an Officer of Salem State University.

This policy is not intended to prohibit approved and appropriately managed economic development activities related to Salem State University generated intellectual property. However, any such activities by Salem State University employees that make use of University property, facilities, equipment or other resources for personal use must be approved in advance.

Key Definitions:

A Conflict of Interest is a divergence between an individual's private interests and his or her professional obligations to the University such that an independent observer might reasonably question whether the individual's professional actions or decisions are determined by considerations of personal gain, financial or otherwise.

Investigator refers to those individuals responsible for the design, conduct, and reporting of activities funded or proposed for funding by an external sponsor. This would normally include all individuals listed as Principal Investigator/Project Director, Co-Investigator/Co-Director, and others so responsible who are not supervised by any of the above.

Significant Financial Interest means anything of monetary value, including but not limited to salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g. stocks, stock options or ownership interests); and intellectual property rights (e.g., patents, copyrights, and royalties from such rights).

Specifically ***excluded*** from the definition of Significant Financial Interest are:

1. Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit private entities.
2. Income from service on advisory committees or review panels for public or nonprofit private entities.
3. Investments in mutual funds or retirement programs if the investigator has no practical control over the management of those investments.
4. Royalties paid by the University.
5. Regular salary, summer salary, or overload compensation paid by the University when the rate of compensation is set by the University. (*Note: consulting fees or other forms of overload compensation paid by the University at rates other than that established by the University are not necessarily excluded from the definition of significant financial interest. See item 7 below.*)
6. An equity interest that, when aggregated for the investigator and the investigator's spouse and children, satisfies both the following conditions: (a) does not exceed \$10,000 in value as determined through reference to public prices or other measures of fair market value, and (b) does not represent more than a 5% ownership interest in any single entity.

7. Salary, consulting fees, royalties or other payments that, when aggregated for the investigator and the investigator's spouse and dependent children over the prior twelve months have not exceeded \$10,000 and over the next twelve months are not expected to exceed \$10,000.

Obligation to Disclose Financial Interests:

Each University employee and student who serves as an *investigator* on proposals submitted to external sponsors must disclose for himself or herself, and for his or her spouse and dependent children:

- (a) all *significant financial interests* that would reasonably appear to be affected by the activities funded or proposed for funding, and
- (b) all *significant financial interests* in entities whose financial position would reasonably appear to be affected by activities funded or proposed for funding.

Regardless of the above minimum requirement, an investigator in his or her best interest may choose to disclose other financial or related interests that could present, or be perceived to present, a conflict of interest. Also, it is not possible to specify all the possible personal relationships or business arrangements which might result in significant financial interests for University personnel engaged in extramurally sponsored activities. In filing a Financial Disclosure Statement, however, University personnel are expected to follow the spirit of the policy and disclose other financial interests that might be anticipated to threaten the same harm. For example, the financial interests of a parent, sibling, independent child, unmarried domestic partner, or a close associate may be perceived as grounds for the same kind of conflict of interest, and should be reported, if known. Similarly, the promise of future gifts, or the offer of a loan on advantageous terms not available to the general public, might represent a significant financial interest.

Financial Disclosure Statements:

Before pursuing a research or grant opportunity, each investigator shall specify whether he or she has a significant financial interest relating to the proposed activity. Each investigator having such an interest shall complete a *Significant Financial Interest Disclosure Form* and submit it with supporting documentation that specifies all business enterprises or entities involved and the nature and amount of each interest. All documentation must be submitted concurrently with the proposal submission to the Office of Sponsored Programs and Research Administration following normal University procedures. At the investigator's option, the supporting documentation may also include a proposed Conflict of Interest Resolution Plan. To the extent allowed by law, disclosures and supporting documents will be treated as "CONFIDENTIAL" materials. All required financial disclosures must be on file in the Office of Sponsored Programs and Research Administration prior to the submission of any proposal to an external sponsor.

Annual Disclosures

All investigators must disclose their Significant Financial Interests that are related to the investigator's institutional responsibilities to the University, through the Institutional Official or designee, on an annual basis. All forms should be submitted to the Institutional Official or designee by March 1 for the previous calendar year or as determined by the subrecipient.

Ad hoc Disclosures

In addition to annual disclosure, certain situations require ad hoc disclosure. All investigators must disclose their Significant Financial Interests to the University, through the Institutional Official or designee, within 30 days of the beginning of their sponsored project.

Prior to entering into sponsored projects or applications for sponsored projects, where the investigator has a Significant Financial Interest, the investigator must affirm the currency of the annual disclosure or submit to the Institutional Official or designee an ad hoc updated disclosure of his or her Significant Financial Interests with the outside entity. The University will not submit a research proposal unless the investigator(s) have submitted such ad hoc disclosures.

In addition, all investigators must submit to the Institutional Official or designee an ad hoc disclosure of any Significant Financial Interest they acquire or discover during the course of the year within thirty (30) days of discovering or acquiring the Significant Financial Interest.

Travel

Investigators must also disclose externally sponsored travel related to their institutional responsibilities, as defined above in the definition of Financial Interest and Significant Financial Interest. Such disclosures must include, at a minimum, the purpose of the trip, the identity of the sponsor/organizer, the destination, the duration, and, if known, the monetary value. The Institutional Official or designee will determine if additional information is needed (e.g., the monetary value if not already disclosed) to determine whether the travel constitutes a financial conflict of interest with the investigator's research.

Nothing in this policy shall be construed to permit, even with disclosure, any activity that is prohibited by law. In addition, each investigator disclosing a significant financial interest shall describe such interest in the proposal narrative or in an attachment thereto, to make certain that the potential sponsor will be fully aware of the possibility of a conflict of interest situation before a final decision on the potential award is made.

Review of Disclosures:

The Institutional Official or designee in consultation with the Director of Sponsored Programs and Research Administration shall conduct an initial review of all financial disclosures to determine whether a conflict of interest exists. A conflict of interest exists if a reasonable determination can be made that a significant financial interest could directly and significantly affect the design, schedule, conduct or reporting of the activities proposed for funding. If the initial determination is made that there is a conflict of interest covered by this policy, then a Conflict of Interest Resolution will be required and implemented within sixty (60) days of the identified Significant Financial Interest.

Time Schedule:

The Institutional Official or designee shall normally decide within ten (10) days of receiving a Financial Disclosure Statement whether a potential conflict of interest exists. If so, the investigator will be asked to prepare a proposed Conflict Resolution Plan.

Whereas investigators must disclose significant financial interests before a proposal is submitted to an external sponsor, the Conflict Resolution Plan, if any, does not need to be finalized until just prior to acceptance of the award. The time duration between the submission of a proposal and the offer of any award varies greatly from a few days, in some instances, to more than a year in others; and of course, not all proposals result in awards. In view of these circumstances, the principal investigator or project director may request that the review of all disclosures relating to the subject proposal be deferred until such time as an award is offered. In that event, the time schedule outlined above will still apply; only the starting point is delayed.

Certification of Compliance:

Each person judged to have a conflict of interest must sign an agreement certifying that he or she will adhere to all conditions or restrictions of the Conflict of Interest Resolution Plan and will cooperate fully with any individual(s) assigned responsibility for monitoring compliance. The University will not accept an award until the Director of Sponsored Programs and Research Administration has received signed Certifications of Compliance for all project personnel judged to have a conflict of interest.

Updating Financial Disclosures:

Investigators are responsible for updating information on new reportable significant financial interests such that accurate and current information is on file with the University at all times. New reportable significant financial interests include financial interests that become reportable due to an increase in value that meets the reporting threshold, as well as the acquisition of new interests that are reportable. Updated financial disclosures must be submitted to the Director of Sponsored Programs and Research Administration with fifteen (15) days of the reportability of such interests, either during the period of a funded project or during the period in which a decision on a proposal is pending.

If an updated disclosure statement is received by the University during the period of an ongoing project, the Institutional Official or designee shall review the updated information within ten (10) days of its receipt and decide whether it causes a conflict not already satisfactorily managed, reduced, or eliminated under the current Conflict Resolution Plan. If it is so decided, the investigator shall have ten (10) days to prepare and submit a new or revised Conflict Resolution Plan. The person making the updated disclosure shall then have ten (10) days to: (a) sign a certification to abide by any new conditions or restrictions or (b) terminate participation in the funded project.

If an updated disclosure statement is received by the University while a decision on a proposal is pending, the University shall defer acceptance of the related award until the Institutional Official or designee has reviewed and acted on the updated information and the investigator has certified compliance with any new terms and conditions.

Individuals not listed as investigators in proposals, but who assume such roles through hiring, promotion or other means, shall submit a Financial Disclosure Statement before beginning work on the project as an investigator:

- (a) If the individual (including the individual's spouse and dependent children) has no significant financial interests related to the project, work may begin immediately upon

submitting written certification of that fact to the Director of Sponsored Programs and Research Administration

- (b) If significant financial interests exist, the individual shall delay work on the project until the financial information is acted upon, and he or she has certified compliance with the Conflict Resolution Plan, if any, as above.

Record Keeping:

Financial disclosures, and updates thereof, shall be submitted to the Director of the Office of Sponsored Programs and Research Administration who shall be responsible for keeping records of all disclosures and associated actions. No proposal may be submitted to an external sponsor on behalf of the University until the Director or designee has received all Financial Disclosure Statements related to that proposal.

The Office of Sponsored Programs and Research Administration shall maintain all records of disclosures and related actions for a minimum of three (3) years after the date of the termination or completion of the corresponding funded project, or the resolution of any audit or legal action involving the records.

Conflict Management Plan

An investigator who has significant financial interests that could affect her/his research must submit an **SSU Financial Disclosure Statement** to the Director of Sponsored Programs and Research Administration. All significant financial interests must be disclosed before a proposal is submitted, and disclosures must be updated annually or as new significant financial interests occur. The Director of Sponsored Programs and Research Administration shall conduct an initial review to determine whether a potential conflict exists. If a potential conflict is revealed, then the disclosure and supporting materials will be referred to the Assistant Provost for Academic Affairs. The Assistant Provost for Academic Affairs will work with the investigator(s) to develop a written conflict management plan that details steps to manage, reduce, or eliminate conflict of interest.

This written **Conflict Management Plan** will be submitted to the Provost, and upon approval by the Provost, signed by the investigator(s) and the Provost. Investigators dissatisfied with the Plan may appeal to the President, whose decision is final. The Conflict Management Plan shall be kept on file with the investigator's funding application materials. This Plan must be approved before any award funds can be expended. Violations, such as willful concealment of financial interests, may result in sanctions.

Retrospective Review

In addition, if the Institutional Official or designee determines that a financial conflict of interest was not identified or managed in a timely manner, including but not limited to an investigator's failure to disclose a significant financial interest that is determined to be a financial conflict of interest, or failure by an investigator to materially comply with a management plan for a financial conflict of interest, the university will conduct a retrospective review of the investigator's activities and the sponsored research project to determine whether the research conducted during the period of non-compliance was biased in the design, conduct, or reporting of the research.

Documentation of the retrospective review shall include the project number, project title, principal investigator, name of principal investigator (if different) with the financial conflict of interest, name of the entity with which the investigator has the financial conflict of interest, reason(s) for the retrospective review, detailed methodology used for the retrospective review, and findings and conclusions of the review.

The Institutional Official or designee will update any previously submitted report to the funding sponsor specifying the actions that will be taken to manage the financial conflict of interest going forward. This retrospective review will be completed in the manner and within the time frame established in funding agency/sponsor regulations. If bias is found, Salem State University will promptly notify the awarding component and submit a mitigation report in accordance with funding agency/sponsor regulations. The mitigation report will identify elements documented in the retrospective review, a description of the impact of the bias on the research project and the plan of action to eliminate or mitigate the effect of the bias.

Reporting:

The Director of Sponsored Programs and Research Administration will report the existence of conflicting interests, financial disclosures, and/or related Conflict Resolution Plans to the Institutional Official or designee and the sponsor of the relevant project, if (a) such reporting is required by the pertinent program regulations or guidelines, (b) the University finds that it is unable to manage, reduce, or eliminate a conflict of interest, or (c) the failure of an investigator to comply with this policy has biased the design, conduct, or reporting of the research. In the last case, report will also be made of corrective action taken or to be taken.

Confidentiality

To the extent permitted by law, all disclosure forms, conflict management plans, and related information will be confidential. However, the University may be required to make such information available to the funding agency/sponsor, to a requestor of information concerning financial conflict of interest related to the funding or to the primary entity who made the funding available to the University, if requested or required. If the University is requested to provide disclosure forms, conflict management plans, and related information to an outside entity, the investigator will be informed of this disclosure.

Sub-recipients

The University, through its Institutional Official, shall require sub-recipient compliance with pertinent financial conflict of interest requirements as mandated by funding agency and/or sponsor regulation.

Public Accessibility

This Financial Conflict of Interest Policy will be posted and publicly available on the Policies section of the institution's website.

Also, prior to the expenditure of funds, the University will publish on a publicly-accessible website or respond to any requestor within five (5) business days of the request, information concerning any significant financial interest that meet the following criteria:

a) The significant financial interest was disclosed and is still held by the senior and key personnel;

- b) A determination has been made that the significant financial interest is related to the funded research; and
- c) A determination has been made that the significant financial interest is a financial conflict of interest.

Required Training: Investigators shall complete Financial Conflict of Interest training provided by the University on or before their becoming subject to this policy and then every four (4) years thereafter. Immediate training will be required if the University revises this policy in a manner that affects the investigator, when an investigator is new to the University, or as a result of a finding of noncompliance with this policy or a management plan, or other related incident.

APPENDIX I:

Significant Financial Interest Disclosure Form

[The following is a form for disclosing information relating to conflicts of interest and potential conflicts of interest.]

CONFIDENTIAL

A. IDENTIFICATION OF POSSIBLE CONFLICT OF INTEREST

In the space below, please describe the relevant research activities that may be affected by the financial or ownership interest that you, your spouse, domestic partner, your dependent children, or other household members may have. Complete the remainder of this section with this possible conflict of interest in mind. Please insert additional pages as necessary to complete this section.

B. OWNERSHIP INTERESTS

List any corporation, partnership, proprietorship, trust, joint venture, and any other business interest, including land used for income in which either you or your spouse, domestic partner, your dependent children, or other household members own or have owned within the preceding 12 months that constitute a legal or equitable interest exceeding \$5,000 or five percent of total ownership, whichever is less, which actually or potentially influences or conflicts with any of your research at the University. Ownership of intellectual property, e.g., patents, royalties, and copyrights, is also included and must be disclosed. If you or member(s) of your household own more than five percent of the total ownership of a business, you must disclose the percentage held.

Please insert additional pages as necessary to complete this section.

If you have nothing to report in this section, initial here. Enter Initials.

Business Name and Address: Enter name and address.

Type of Business: Enter business type.

Description of Interest: Enter description.

Held by (you/spouse/other) Enter Name.

% Interest held: Enter %.

Salem State University¹
Disclosure of Significant Financial Interest

A separate form is required for each entity which represents a significant financial interest. This information must be updated annually or when reportable significant financial interest occurs.

Investigator Name	<u>Enter First Name.</u>	<u>Enter Last Name.</u>
Investigator College and Department	<u>Enter College Name.</u>	<u>Enter Department Name.</u>

EITHER: I have no significant financial interest

OR: I am reporting significant financial interest below (please check box and provide information)

Remuneration amount: [Click here to enter amount.](#) Source: [Click here to enter text.](#)

Type of Organization (e.g., pharmaceutical firm; biotech firm; engineering company; software company, etc.) [Click here to enter text.](#)

Nature and amount of Remuneration that is greater than \$10,000: [Click here to enter text.](#)

Salary: [Click here to enter text.](#)

Royalties: [Click here to enter text.](#)

Licensing: [Click here to enter text.](#)

Consulting: [Click here to enter text.](#)

Honoraria: [Click here to enter text.](#)

Other: [Click here to enter text.](#)

Types of holdings whose fair market value is greater than \$10,000 or more than 5% of ownership interest:

Stocks/Stock Options: [Click here to enter text.](#)

Patents/Copyrights: [Click here to enter text.](#)

Other: [Click here to enter text.](#)

Investigator's Signature: [First Name.](#) [Last Name.](#)

Date: [Click here to enter a date.](#)

¹Adapted from the Bridgewater State University Disclosure of Significant Financial Interest

Appendix II General Definitions

1. *Disclosure* means an investigator's disclosure of significant financial interests to the University.
2. *Family* means any member of the investigator's immediate family, specifically, any dependent children and spouse or other household members.
3. *Financial Conflict of Interest (FCOI)* means a significant financial interest that could directly and significantly affect the design, conduct, or reporting of funded research.
4. *FCOI Report* means a university's report of a financial conflict of interest to the awarding agency/sponsor.
5. *Financial Interest* means anything of monetary value, whether or not the value is readily ascertainable.
6. *Institution* means Salem State University.
7. *Institutional Official* means the individual within the university who is responsible for the solicitation and review of disclosures of significant financial interests including those of the investigator's family related to the investigator's institutional responsibilities. For the purposes of this policy, the Institutional Official is the University Risk Manager.
8. *Institutional Responsibilities* means an investigator's professional responsibilities on behalf of the University, and as defined by the university in its policy on financial conflict of interest, which may include for example: activities such as research, research consultation, teaching, professional practice, institutional committee memberships, and service on the Institutional Review Board or Institutional Animal Care and Use Committee .
9. *Investigator* means the project director or principal investigator and any other person, regardless of title or position, who is responsible for the design, conduct, or reporting of funded research, or proposed for such funding, which may include, for example, postdoctoral fellows, graduate students, undergraduate students, collaborators or consultants.
10. *Manage* means taking action to address a financial conflict of interest, which can include reducing or eliminating the financial conflict of interest, to ensure, to the extent possible, that the design, conduct, and reporting of research will be free from bias.
11. *PD/PI* means a Project Director or Principal Investigator of a funded research project; the PD/PI is included in the definitions of senior/key personnel and investigator under this subpart.

12. *Relationships which can give rise to conflicts of interest* - Relationships as used in this policy include relationships with others which can give rise to real or perceived conflicts of interest. These include, among others, personal relationships created by kinship, domestic partnership, friendship, or professional contacts, and financial relationships created by contracts, shared property rights or state or Federal law.
13. *Research* means a systematic investigation, study or experiment designed to develop or contribute to generalizable knowledge. The term encompasses basic and applied research (e.g., a published article, book or book chapter) and product development (e.g., a diagnostic test or drug). As used in this subpart, the term includes any such activity for which research funding is available through a grant or cooperative agreement, such as a research grant, career development award, center grant, individual fellowship award, infrastructure award, institutional training grant, program project, or research resources award.
14. *Senior/key personnel* means the PD/PI and any other person identified as senior/key personnel by the University in the grant application, progress report, or any other report submitted to the sponsor by the University under this subpart.
15. *Significant Financial Interest* means:
- (a) A Financial Interest consisting of one or more of the following interests of the investigator (and those of the investigator's spouse, domestic partner and dependent children) that reasonably appears to be related to the investigator's institutional responsibilities:
 - i. With regard to any publicly traded entity, a significant financial interest exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure and the value of any equity interest in the entity as of the date of disclosure, when aggregated, exceeds \$5,000. For purposes of this definition, remuneration includes salary and any payment for services not otherwise identified as salary (e.g., consulting fees, honoraria, paid authorship); equity interest includes any stock, stock option, or other ownership interest, as determined through reference to public prices or other reasonable measures of fair market value;
 - ii. With regard to any non-publicly traded entity, a significant financial interest exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure, when aggregated, exceeds \$5,000, or when the investigator (or the investigator's spouse or dependent children) holds any equity interest (e.g., stock, stock option, or other ownership interest), or a management or governance position; or
 - iii. Intellectual property rights and interests (e.g., patents, copyrights), upon receipt of income related to such rights and interests.
 - (b) Travel:
 - i. Investigators also must disclose the occurrence of any externally reimbursed or sponsored travel (i.e., that which is paid on behalf of the investigator and not reimbursed to the investigator so that the exact monetary value may not be readily available), related to their institutional responsibilities; provided, however, that this disclosure requirement does not apply to travel that is reimbursed or sponsored by a Federal, state, or local government agency, an

institution of higher education as defined at 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education.

- ii. Disclosure for travel shall include, at a minimum, the purpose of the trip, the identity of the sponsor/organizer, the destination, and the duration. The institution will determine if further information is needed, including a determination or disclosure of monetary value, in order to determine whether the travel constitutes an FCOI with the funded research.

(c) Exclusions: The term Significant Financial Interest does not include the following types of financial interests:

- i. salary, royalties, or other remuneration paid by the institution to the investigator if the investigator is currently employed or otherwise appointed by the institution, including intellectual property rights assigned to the institution and agreements to share in royalties related to such rights;
- ii. income from investment vehicles, such as mutual funds and retirement accounts, as long as the investigator does not directly control the investment decisions made in these vehicles;
- iii. income from seminars, lectures, or teaching engagements sponsored by a Federal, state, or local government agency, an institution of higher education as defined at 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education; or
- iv. income from service on advisory committees or review panels for a Federal, state, or local government agency, an institution of higher education as defined at 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education.

16. *Potential* means an opportunity with a reasonable likelihood of occurring.

17. *Gift* is defined by the Commonwealth of Massachusetts State Ethics Commission: G.L. c. 268A does not define the terms gift and gratuity; instead, the law prohibits "anything of substantial value." Gifts may include honoraria and any free or discounted items or services, such as meals, entertainment event tickets, golf and travel expenses, for which payment is normally required. Anything a public employee accepts is an unlawful gift or gratuity if it is: (a) of substantial value and (b) offered for or because of an official act or an act under the employee's official responsibility. Anything worth \$50 or more is considered to be "of substantial value" for purposes of the conflict of interest law. To determine substantial value, the Commission may consider, for example, the cost per person of entertainment hosted by the giver, what it would cost the public to purchase an item or the actual cost incurred by the giver in acquiring the gift given to the public employee. In some situations, the value of a gift will not be its retail price. The giver may have paid more, for example, than the face price of a ticket. In such instances, the receipt of such tickets may be an unwarranted privilege. See the discussion below of G.L. c. 268A, § 23(b)(2.)¹ Similarly, the value of a two-year-old computer is likely to be significantly less than its cost while the value of an item purchased many years ago that has become a collector's item may be significantly greater than its cost. Finally, some items, e.g., ordinary and customary plaques or similar items honoring a public employee's dedication or outstanding service, may, due to the inscription honoring the employee, have little value once so inscribed. There are also other special cases that public employees should keep in mind. For example, where the gift is a meal, the value of the meal will include the tax and gratuity paid as well as the retail (menu) price of the meal itself. In addition, where a public employee is accompanied by a spouse, family member or guest, the value of the meal of the companion of the public employee is included as part of the

\$50 "substantial value" threshold. Finally, under some circumstances, the Commission will consider a group or series of gifts from the same source, that are individually less than \$50 in value but add up to \$50 or more, to be in the aggregate a gift of substantial value for G.L. c. 268A purposes. For example, a meal and an entertainment event ticket from the same giver, each valued at less than \$50, together could be valued at more than \$50.

¹ I. UNWARRANTED PRIVILEGES (G.L. c. 268A, § 23(b)(2))

Public employees are prohibited from, knowingly or with reason to know, using or attempting to use their official positions to secure for themselves or others unwarranted privileges of substantial value that are not properly available to similarly situated individuals. "Substantial value" has been set at \$50 or more by the courts and the Ethics Commission. In some instances, "substantial value" may not be readily ascertainable, such as when a public employee uses his or her position to get preferential treatment, to secure a special benefit or to retaliate against someone. In such cases, the Ethics Commission will view the totality of the circumstances to determine whether the substantial value threshold has been met. "Similarly situated individuals" can mean, in various situations, other people, businesses or entities in the city, town, state or county who are not necessarily public employees.

Using public equipment and resources for personal business is using an official position to obtain an unwarranted privilege of substantial value not properly available to others. Thus, the use of public resources valued at \$50 or more for personal, private or political purposes violates the conflict of interest law. In addition, public employees may not use the "inherently coercive authority" of their position to seek anything of substantial value.

Example: A manager may not use official time, his staff or the supplies or equipment available to him in his office in order to write books.

Example: An elected official may not invoke his position to seek preferential treatment from police officers during a traffic stop.

Example: A public employee may not generally solicit donations for a private or charitable organization from individuals with whom he conducts official business.