

Section V: Human Resources

Chapter 1: Employee Classification

University employees are placed into one of the following four categories:

- a.** Faculty
- b.** Administrative and Professional
- c.** Classified Staff
- d.** Student Employees

1.1 Faculty

The regular academic ranks are Professor, Associate Professor, Assistant Professor, and Instructor. Only full-time service in these ranks will be counted toward fulfillment of the tenure probationary period, and only members of the faculty with the academic titles of Professor, Associate Professor, or Assistant Professor may be granted tenure in accordance with Section III, Chapter 4, Academic Policies and Faculty Personnel Matters, of this Handbook.

1.2 Administrative and Professional (A/P)

- a.** Positions whose incumbent serves as the head or director of a non-academic department or budget entity, is appointed by and serves at the pleasure of the President or his or her delegate, and prepares and administers the policies, programs, and internal procedures of the department;
- b.** positions whose incumbent serves as an assistant or associate department head or director and who participates in the management of the department or a major functional segment thereof, and performs the duties and responsibilities of the department head or director in the latter's absence;
- c.** positions whose incumbents perform duties solely or preponderantly of a recognized and state-licensed profession requiring a doctoral degree such as lawyers, physicians, opticians, veterinarians, etc.;
- d.** positions, such as those of professional librarians, which are excluded by law from the Classified Service;
- e.** positions whose incumbents are employed to perform specialized functions, such as athletic coaches;
- f.** positions which require an incumbent to possess a national reputation or status in their field or unusual or unique and highly specialized expertise in a particular area or field of endeavor.

1.3 Classified Staff

All Classified staff personnel will be assigned a position title contained in the University Classified Pay Plan on the basis of responsibility of work to be performed. Each position title in the Classified Pay Plan carries a salary range that has been established to make provision for salary progression within each classification on the basis of merit and other such factors as may be prescribed. Internal equity was achieved based upon job content and without regard to the incumbent or the incumbent's performance. A hierarchy of jobs is the result, ranging from lesser to higher levels of difficulty. Standardized job descriptions and salary ranges are developed for each job classification. Salary ranges are established to be both internally equitable and externally competitive. All staff positions must be classified in a manner which properly reflects the level of responsibility of the work to be performed. A supervisor may not change the duties and responsibilities of a job that would change the position's classification without prior administrative approval as provided for in 2.5, below.

1.3.1 Probationary Service Required

All newly appointed classified employees at the University are required to satisfy a probationary period of 180 days from the beginning date of employment. The probationary period begins on the first day of appointment. If an employee is placed on leave without pay during the probationary period, then the probationary period is extended by the same number of days that the employee is on leave.

The probationary period allows the supervisor to observe and evaluate a new employee's work performance and permits the employee to adjust to the job and working conditions. Throughout this period, the immediate supervisor will provide any assistance considered necessary to assist the probationary employee to improve performance or facilitate adjustment.

1.3.1.1 Evaluation of Probationary Service

Supervisors must evaluate the work performance of the probationary employee at the end of the probationary period, or prior to any decision to terminate the employee during the probationary period, using the standard University employee performance evaluation form. Any information concerning the employee's performance during the probationary period should be documented in the employee's personnel file.

1.3.1.2 Termination of Probationary Employment

During the probationary period, subject to review and approval of the Office of Human Resource Services the employment of any probationary employee whose performance is judged to be unsatisfactory may be terminated without prior notice. An employee terminated during the probationary period does not have access to the discipline and dismissal policies and procedures of the University.

1.3.2 Probationary Policy for Transfer

A transfer, promotion, or demotion of a classified employee, to a position within the university, begins a new probationary period of 180 days. The probationary period is established to ensure that the employee selected for the new position is qualified and can meet the minimum performance standards for that position.

The employee, as a general rule, must satisfactorily complete a probationary period of 180 days with no disciplinary action beyond a Verbal Warning in order to be eligible for a subsequent transfer, promotion, or demotion from (or within) the current department.

Supervisors are required to complete a performance evaluation upon completion of the 180 day probationary period. However, it is recommended that the evaluation be conducted as of the 90th day of employment or sooner, if the employee is not performing satisfactorily.

If the employee is placed on leave without pay during the probationary period, then the probationary period is extended by the same number of days that the employee is on leave.

If an employee is terminated during the probationary period, he or she does not have access to the discipline and dismissal policies and procedures for classified employees in The University of Texas at El Paso Handbook of Operating Procedures.

1.4 Student Employees

1.4.1 A student employee is defined as a person who is enrolled full-time in a degree or certificate program at The University of Texas at El Paso and is also employed part-time by the University at any time during the period of enrollment. A person enrolled full-time as a student in a degree, certificate, or other course of study at the University may not also be employed full-time by the University during the period of enrollment unless the supervising administrative official has certified that such enrollment will not conflict with the employee's assigned duties and the enrollment has been reviewed and approved by the Human Resource Services Office. The workload of a student employee may not exceed nineteen (19) hours per week. Student employees are not eligible for paid leaves or holidays and are not entitled to use the regular employee appeals and grievance procedures. Additional information relative to job code and title, rate of pay, type of pay rate, and maximum hours and time permitted to work for student employees is contained in the current University Classified Pay Plan.

1.4.2 A full-time employee who is also enrolled part-time in credit classes at the University is not deemed to be a student employee and is subject to the same terms and conditions applicable to any other classified employee.

Chapter 2: Classification of Staff Positions

2.1 The Staff Classification Plan

The University shall maintain and administer a classification plan for classified employee service to accurately reflect the current duties, responsibilities, and work requirements of all positions. The classification plan will group positions and assign titles to those positions that involve substantially the same kind of work, substantially equivalent difficulty and responsibility, and comparable experience and training requirements into the same class. The classification plan will consist of a schedule of appropriately descriptive class titles and a description of the nature and requirements of work for each of the listed titles. The Human Resource Services Director will, as changes in organization and assignments of work require, recommend amendments to the classification plan. Such recommendations will be directed through the Vice President for Business Affairs for approval by the President of the University, The University of Texas System Administration, and the Board of Regents.

2.2 Job Descriptions

The Office Human Resource Services will provide current and accurate written job descriptions for each title in the classification plan. Each job description will include a description of the duties and responsibilities of the work, and a statement of the qualifications a person should possess in order to perform the duties of a position.

2.3 Job Titles

2.3.1 No person will be appointed to, or employed in a position in the classified service under a job title not included in the classification plan.

2.3.2 Official class job titles will be used in all personnel, accounting, budget appropriation, and financial records. However, internal working titles may be used in connection with departmental routine to indicate functional or authority status or administrative rank within the work unit.

2.3.3 Generally, the addition of job titles, the deletion of job titles, and other various alterations involving job titles will be accomplished annually with any such changes to be effective on the first day of the fiscal year. Occasionally, as a result of unusual circumstances, changes may be requested during the fiscal year. Any midyear changes, however, must be fully justified and require administrative approval

2.4 Establishment of New Staff Positions

2.4.1 A Position Audit conducted by Human Resources Services is required for all new positions, including those approved in the budget preparation process. When the need for the establishment of a new classified position has been determined, the department head will prepare a Position Audit form in support of the new position for submission to the Human Resources Services Department.

2.4.2 Should the proposed position require the establishment of a job title not in the current Classified Pay Plan, a job description will be written by the Office of Human Resource Services. The request for the new position and job description will then be sent to the U.T. System Personnel Office for approval. All new job classifications must be approved by the University and UT System Personnel Office before that classification may be implemented.

2.5 Reclassification of Existing Staff Positions

2.5.1 A reclassification of a position is necessary when its duties have changed sufficiently to require a change of title. A reclassification always involves a change in title, but it may not necessarily involve a change in salary.

2.5.2 A request for the reclassification of an existing position will follow the same procedures and will be processed in the same manner as set forth in 2.4 above. Any approved reclassification shall carry the minimum pay level for the new position or the existing pay level of the reclassified employee if that pay level is within the authorized pay range for the new position.

Chapter 3: Employment Policy

3.1 Employment Policy

The University of Texas at El Paso is an Equal Opportunity/Affirmative Action Employer. The University, in the administration of its employment policies and practices, will not discriminate against employees or applicants for employment because of race, color, national origin, sex, religion, age, veteran status, sexual orientation, or disability. The University will take affirmative steps to insure that applicants are employed and employees are treated, during employment, in a non-discriminatory manner. The University's commitment to equal opportunity principles applies to all aspects of employment, including recruitment, promotion, compensation, benefits, and training.

Our institutional commitment to these policies provides for selection procedures based upon objective, defensible qualifications; promotions based upon documented performance, merit, and potential achievement and performance evaluations which are accurate and unbiased. In addition, the University commits itself to increased recruitment efforts to assure that qualified minorities, women, veterans, and individuals with a disability are represented in the applicant pool and are evaluated equitably by search committees or administrative personnel.

Responsibility for implementation rests with every member of the University community: administrative officers, deans, department chairpersons, management and supervisory personnel, and members of search committees.

For information on transfers, promotions, demotions and other employment actions, please see <http://admin.utep.edu/DesktopDefault.aspx?tabid=6543>

3.2 Employment of Non-Citizens

Subject to security restrictions applicable to certain Federal contract or grant funded activities, aliens may be employed at the University provided they have been issued the appropriate visa

and work permit by the Federal Government. Before any commitment is made to a non-citizen applicant who is under consideration for a faculty or staff position, he/she must be referred to the Human Resource Services Office for a determination of visa status and eligibility for employment.

3.3 Security Sensitive Positions

Security sensitive positions are those that require receipt and review of a criminal history record on all applicants for employment. Security sensitive positions will be identified as such in both the job description and the advertisement for the position. See Chapter 11 of this Section of the Handbook for policies regarding Criminal Background Checks.

3.4 Age Requirements

Please refer to the next section

3.4.1 Employment of Minors

The minimum age for employment at the University is 16 years. Due to federal restrictions on type of work suitable for those under 18 years, the Human Resource Services Office must be contacted for review and approval when the hiring department is considering the employment of a person under 18 years. Supervisors may require certification of the age in instances in which there is reasonable doubt regarding a minor's age.

3.4.2 Maximum Age of Employment

In accordance with Regent's [Rules and Regulations](#), Part One, Chapter III, Section 33, there is no compulsory retirement age for its employees with the exception of law enforcement officers. A law enforcement officer will not be employed beyond the end of the fiscal year that includes the officer's seventieth birthday.

3.5 Drug and Alcohol Testing Requirements

All applicants for employment as Commissioned Police Officers, in positions that involve the duties or activities that require possession of a commercial Driver's License, and certain other security sensitive positions will be required to provide a urine sample for testing for the presence of illegal drugs or to undergo alcohol testing as provided below.

3.5.1 All published or posted notices of vacancies in positions covered by this policy shall state that all applicants will be required to consent to a urinalysis for the purpose of testing for the presence of illegal drugs and an alcohol concentration test for the purpose of testing for the presence of alcohol.

3.5.1.1 Applicants who refuse to consent to a urinalysis and alcohol concentration test or who test positive for the presence of illegal drugs or alcohol in prohibited concentrations will not be considered for employment in a position covered by this policy and may not reapply for such employment for a period of six months.

3.5.1.2 Prior to signing the consent form, applicants will be informed of the testing procedure either orally or in writing.

Chapter 4: Outside Employment

It is the policy of the University that all regularly employed University personnel are required to obtain advance approval of the respective Department Administrator, Dean, Vice President, and President before accepting or engaging in employment outside the University. Each such engagement will be judged on its individual merits and conformity to the Board of Regents' [Rules and Regulations](#). Advance approval can be obtained by completion of the form entitled "Request for Prior Approval of Outside Employment/Consultation/ Appointment/Positions."

4.1.1 Members of the faculty or staff are not discouraged from accepting appointments of consultative or advisory capacity with governmental agencies, industry, or other educational institutions. The consideration to the University of such activity is the improvement of the individual by virtue of his/her continuing contact with nonacademic problems in the nonacademic world.

4.1.2 Members of the faculty or staff are discouraged from accepting regular employment with educational institutions outside the U.T. System because this action would be divisive of loyalties and does not provide the benefit to the institutions.

4.1.3 Conflict of interest should be avoided in all instances of outside employment. Conflict of interest in an academic institution is defined as outside activity that intrudes upon the academic functions of teaching, scholarly activities, and service to the institution. However, there exists an obligation, usually intermittent, to furnish expert knowledge and counsel for public benefit free of charge, provided that the meeting of this obligation by a faculty or staff member does not interfere with their regular duties, and provided further that in meeting this obligation, a faculty or staff member on full-time appointment will avoid undue competition with legitimate private entities.

4.1.4 No member of the faculty or staff engaged in outside remunerative activities will use in connection with such outside activities the official stationery of the U.T. System or the University, or give as a business address any building or department of the institution.

4.1.5 No member of the faculty or staff will accept employment or any position of responsibility, the discharge of which, will be antagonistic to the interests of the State of Texas, the U.T. System or the University.

4.1.6 No member of the faculty or staff will accept pay from private persons or corporations for tests, essays, chemical analyses, bacteriological examinations, or other such work of a routine character, which involve the use of property owned by the U.T. System or the University unless advance permission has been obtained from the institutional head and provisions have been made for compensation to the University.

4.1.7 No member of the full-time staff of the University on a twelve-month or nine-month basis will be employed in any outside work or activity, or receive from an outside source a regular retainer fee or salary until a description of the nature and extent of the employment has been filed with and approved by appropriate administrative officials as provided for in 4.1 of this section.

4.2 Dual Employment With Other State or Federal Agencies

4.2.1 Subject to the other provisions of this section, a member of the faculty or staff may hold other non-elective offices or positions of honor, trust, or profit with the State of Texas or the United States if the offices or positions held are of benefit to the State of Texas or are required by State or Federal Law, and if there is no conflict between the office or position held for which the member of the faculty or staff receives salary or compensation. Before a member of the faculty or staff may accept an offer to serve in other non-elective offices or positions of honor, trust, or profit with the State of Texas or the United States, the member of the faculty or staff must obtain from the appropriate administrative officials and the Board of Regents a finding that the requirements of this section have been fulfilled, including disclosure of the expected additional compensation to be received from such service. The University must keep a record of compensation received from additional State or Federal employment, or both, and include specifically: salary, bonuses, and per diem or other type of compensation.

4.2.2 Special provisions applicable to outside employment with another State or Federal agency are:

- a.** Employees may not receive consulting fees or other payments in addition to their regular budgeted, full-time salaries from another U.T. System component (other than allowable travel reimbursement), unless it is expressly found by the President of the receiving institution that it is in the best interest of the institution and the State of Texas to do so, and such exception is specifically authorized by the President of the institution for whom the employee works. Copies of such specific authorization should support the payment voucher of the receiving institution, and a copy of the payment voucher should be forwarded to the supplying institution.
- b.** Employees of the institution who perform work with other State institutions or agencies will be paid through Interagency Cooperation Contracts.
- c.** Prior Regental approval is required in cases of a dual employment relationship with State or Federal agencies.
- d.** Remuneration received from other State or Federal agencies must be reported to the President's Office annually.

4.2.3 University employees who are also legally employed in one or more positions within Texas State government, including another U.T. System component, another state institution of higher education, or a state agency are subject to the following provisions:

- a.** separate leave records will be maintained for each such employment;
- b.** time worked in one position may not be used as additional-credit for purposes of longevity or annual leave accrued for the other position;
- c.** upon termination of one employment, the leave balances accrued under that employment may not be transferred to the remaining employment;
- d.** state contribution toward the employee's portion of Social Security tax liability will be subject to the overall limit as mandated by the State Appropriation Bill;

e. total State contribution toward the employee's group insurance will be limited to no more than the amount specified in the current Appropriations Bill for full-time active employees but the employee may choose the insurance program of only one of the employing entities for the employee and/or dependents, and that entity will contribute the total State contribution;

f. the employee will be entitled to receive longevity payment for no more than one employment;

g. an employee who works in a dual employment capacity, subject to the overtime provisions of the Fair Labor Standards Act in either employment, will have all combined time worked in excess of 40 hours per week as overtime, and the employee will be compensated for such overtime in accordance with the overtime provisions of the Fair Labor Standards Act.

4.3 Service on Outside Boards

Administrators, faculty, and staff of the University may be asked to serve on boards, councils, or other governing or advisory bodies ("outside boards") of various business, civic, professional, social, and religious organizations, both for profit and not-for-profit, and in compensated and non-compensated positions. Such service is generally deemed to be in the best interest of the University because it broadens the experience of the individuals involved and exposes the University to a larger audience of business, civic, professional, social, and religious leaders.

4.3.1 Standards for Outside Board Service

The primary responsibility of a University employee is the accomplishment of the duties and responsibilities of their employment position. In evaluating whether to accept a position on an outside board, an individual should first assure that such a position would not create a conflict of interest and that fulfillment of the responsibilities of such a position would not impose an unreasonable time requirement.

4.3.2 Approval

Prior to accepting any position on an outside board, whether for profit or non-profit and whether compensated or non-compensated, the employee wishing to accept such position shall first advise the University Compliance Officer to evaluate any potential conflict of interest and then obtain approval from their departmental head, director, or administrative officer.

4.3.2.1 Appointments to other non-elective positions under the State of Texas or the United States, or for service on boards of any external non-profit entity dedicated to the benefit of the University or the UT System are subject to specific provisions of the Regents' [Rules and Regulations](#) and require additional approval.

4.3.3 Risks of Liability

University employees should be aware of the potential risk of liability associated with outside board service, whether on boards of profit or not-for-profit entities and whether or not compensated, and should evaluate those risks and the need for appropriate insurance and indemnification. Such persons should be aware that statutory limitations on liability of state employees or that indemnification by the University or any insurance coverage provided by the UT System may not apply to such service.

4.3.4 Accounting for Outside Board Service

4.3.4.1 Uncompensated Board Service

Recognizing the benefit to be derived by the University from outside board service, and after thorough consideration of the time commitment that might be involved, time spent on uncompensated service on non-religious boards, other than for reimbursement of usual and customary expenses, shall be deemed to be service to the University and need not require the use of a person's own time.

4.3.4.2 Compensated Board Service and Service to a Religious Organization

Service on any outside board, whether for profit or not-for-profit, for which a University employee is compensated, and any service to a religious organization, whether or not compensated, must be on such person's own time, and if such service occurs during normal office hours, then such person must use vacation time, compensatory time, or other leave while providing such service. Any such service should be without cost to the University.

4.3.5 Reporting

In addition to any report required by State Law, any employee who serves on any outside board shall file a report with the President within sixty (60) days of the adoption of this policy and, thereafter, annually in September of each year. Such report shall list each outside board on which any such person serves, and with respect to each such board, shall include the following information:

- a.** the number of hours normally required by such service, i.e., monthly, quarterly or annually;
- b.** whether such service is compensated or not;
- c.** whether such service is protected by one or more policies of directors' and officers' liability insurance, and whether any such insurance coverage provides for general indemnification or only costs of defense.

If, during any year, a person covered by this Section joins one or more additional outside boards, the annual report provided for herein shall be supplemented within thirty (30) days of joining such additional board or boards.

4.3.6 Exceptions to Provisions of This Policy

4.3.6.1 Extension of Professional Position

It is anticipated that some University employees may be asked to serve on particular outside boards because of their University-related areas of expertise or the offices or positions they hold. Such service is of particular value to the University and is actively encouraged because of the recognition it provides to the University, and the additional information, exposure, understanding, and insight the individual will receive. Such uncompensated service is deemed to be service to the University and need not require the use of a person's own time, and it is excluded from all portions of this policy other than the conflict of interest provisions and reporting requirements.

4.3.6.2 Personal

The provisions of this policy do not apply to service on the board of a municipality; local religious congregation; neighborhood association; local, private or parochial school; youth sports or recreation league; affinity group such as the local orchid society or model train collectors club; and other similar outside boards the service on which is primarily personal rather than professional in nature, and does not require the expenditure of time away from University responsibilities.

4.3.6.3 Family-owned Businesses

The provisions of this policy do not apply to service on the board of a family-owned business in instances in which such service is incidental and does not require the expenditure of time away from University responsibilities.

Chapter 5: Nepotism

5.1 Pursuant to the Texas Government Code, the Regents [Rules and Regulations](#) state "No person related to any member of the Board of Regents within the second degree by affinity or within the third degree by consanguinity shall be eligible for appointment to any office, position, employment, or duty with the University of Texas System or any component institution thereof, when the salary, fee, or compensation of such appointee is to be paid, either directly or indirectly, out of public funds of any kind."

5.2 The Regents [Rules and Regulations](#) further require that no officer, official, or employee of the University may approve, recommend, or otherwise act with regard to the appointment, reappointment, promotion, or salary of any person related to them within the second degree by affinity or the third degree by consanguinity regardless of the source of funds for payment of salary.

5.2.1 If the appointment, reappointment, or promotion of a person places him or her under an administrative supervisor or over another employee related within the above specified degree, all subsequent actions with regard to reappointment, promotion, or salary of the supervised employee shall be the responsibility of the next highest administrative supervisor. It shall also be the responsibility of the next highest administrator to make a written review of the work performance of such employee at least annually, and submit each review for approval or disapproval by the Director of Human Resource Services, in the case of classified employees, or the President, in the case of faculty or non-classified employees.

5.2.2 These provisions shall apply to situations in which two employees of the System marry, and one spouse is the administrative supervisor of the other. All situations covered by Subdivision 5.21 of this chapter shall be reported annually through the institution's docket or with the annual operating budget.

If the appointment, reappointment, or promotion of a person places him or her in an administrative or supervisory position with responsibility to approve, recommend, or otherwise act with regard to the appointment, promotion, or salary of a person who is related to them within the degree prohibited by the Texas Government Code, all subsequent actions regarding the reappointment, promotion, or salary of such person shall be made by the next highest administrator or supervisor at the component institution or The University of Texas System. It shall be the responsibility of the administrator or supervisor acting pursuant to Subdivisions 5.21 or 5.22 of this Chapter to make a written review of the work performance of such person at least annually and to submit such review to the next highest administrator or supervisor at the University.

Chapter 6: Discipline and Dismissal of Staff Employees

6.1 Policy and Purpose.

It is the policy of The University of Texas at El Paso to encourage fair and efficient processes to resolve disputes arising out of the employment relationship and to meet the requirements of State and federal law.

The purpose of this policy is to provide a procedure for the discipline and dismissal of classified employees who are subject to its provisions. Classified employees are at-will employees who serve without tenure. No provision of the policy and procedures that follows shall confer rights to employees that are contrary to the employment-at-will doctrine.

6.2 Applicability.

These policies and procedures are applicable to conduct or job performance of a classified employee that results in a decision to impose a disciplinary penalty of demotion, suspension without pay, or dismissal. It does not apply to:

- 6.2.1** Institutional police or faculty who are subject to other approved discipline or dismissal procedures;
- 6.2.2** Suspension with pay pending investigation of allegations relating to an employee;
- 6.2.3** Decisions not to offer reappointment to persons whose appointment for a stated period of one year or less expires at the end of such period without the necessity of notice of non-renewal as provided in the Regents' *Rules and Regulations* or the policies of The University of Texas at El Paso;
- 6.2.4** Administrative and professional employees who are appointed to positions without fixed term and serve at the pleasure of a specific administrative officer;
- 6.2.5** Persons who are employed in positions that require student status as a condition of employment; or

6.2.6 Dismissal of employees

- (a) who occupy positions that are dependent upon funding from a specific source and such funding is not received,
- (b) as a result of a reduction in force,
- (c) due to financial exigency,
- (d) during any probationary period of employment,
- (e) who are appointed for a stated period that is less than 180 days,
- (f) who are appointed at a per diem or hourly rate and work on an as needed basis, or
- (g) who have not attained or maintained the necessary clearance, certification or licensure for their position, or
- (h) who have exhausted applicable leave entitlements.

6.3 Discipline and Dismissal Policy and Procedures

6.3.1 Employee Standard of Conduct.

Each employee is expected to become familiar with the performance criteria for his or her particular job and with all rules, procedures and standards of conduct established by the Board of Regents, The University of Texas at El Paso, and the employee's department or unit. An employee who does not fulfill the responsibilities set out by such performance criteria, rules, procedures, and standards of conduct may be subject to adverse personnel action.

6.3.2 Conduct Subject to Disciplinary Action.

(a) Work Performance.

Work performance is to be judged by the supervisor's evaluation of the quality and quantity of work performed by each employee. Failure of an employee to maintain satisfactory work performance standards or to meet a reasonable and objective measure of efficiency and productivity can constitute grounds for disciplinary action including dismissal.

(b) Unacceptable Conduct.

All employees are expected to maintain standards of conduct suitable and acceptable to the work environment. Disciplinary action, including dismissal, may be imposed for unacceptable conduct. Examples of unacceptable conduct include, but are not limited to:

- (1) falsification of time sheets, personnel records, or other institutional records;
- (2) neglect of duties;
- (3) smoking anywhere except in designated smoking areas;
- (4) gambling, participating in lotteries or any other games of chance on the premises at any time;
- (5) soliciting, collecting money or circulating petitions on the premises other than within the rules and regulations of the institution;
- (6) bringing intoxicants or drugs onto the premises of the institution, using intoxicants or drugs on the premises at any time, having intoxicants or drugs in one's possession, or being under the influence of intoxicants or drugs on the premises at any time;
- (7) abuse or waste of tools, equipment, fixtures, property, supplies or goods of the institution;
- (8) creating or contributing to unhealthy or unsanitary conditions;
- (9) violation of safety rules or accepted safety practices;
- (10) failure to cooperate with supervisor or co-worker, impairment of function of work unit or disruptive conduct;
- (11) disorderly conduct, harassment of other employees (including sexual harassment) or use of abusive language on the premises;
- (12) fighting, encouraging a fight or threatening, attempting or causing injury to another person on the premises;
- (13) theft, dishonesty, or unauthorized use of institutional property, including records and confidential information;
- (14) creating a condition hazardous to another person on the premises;
- (15) destroying or defacing institutional property or records or the property of a student or employee;
- (16) refusal of an employee to follow instructions or to perform designated work that may be required of an employee or refusal to adhere to established rules and regulations;
- (17) repeated tardiness or absence, absence without proper notification to the supervisor, or absence without satisfactory reason or unavailability for work;
- (18) violation of policies or rules of The University of Texas at El Paso or The University of Texas System.

6.3.3 Discipline Procedures.

The following procedures will be followed when an employee who is subject to this policy is demoted for disciplinary reasons, suspended without pay, or dismissed.

- (a) The supervisor will review the evidence and the proposed disciplinary action with the chief human resources officer or his or her designee.
- (b) Once the supervisor has sought and obtained the concurrence of the chief human resources officer or his or her designee, he or she must then obtain the concurrence of the department head or administrative equivalent to whom he or she reports before proceeding with the proposed disciplinary action.
- (c) The supervisor shall inform the employee in writing of the reasons for the proposed disciplinary action and the facts upon which the supervisor relies. The employee shall be provided with an opportunity to respond to the charges either verbally or in writing within a reasonable time not to exceed two (2) working days and to persuade the supervisor that the grounds for the disciplinary action are mistaken or incorrect before a final decision is made to take disciplinary action. This pre-disciplinary notification serves as an opportunity to avoid mistaken decisions to impose discipline and is not intended to definitively resolve the propriety of the disciplinary action being considered.
- (d) If the supervisor is not persuaded by the employee's response that the decision to take disciplinary is incorrect or mistaken, the supervisor will proceed to impose the disciplinary action. The supervisor shall inform the employee in writing of the following:
 - (1) whether the disciplinary action is a demotion, suspension without pay or dismissal and its effective date;
 - (2) a specific period for a suspension without pay, not to exceed one (1) month, to be determined in consultation with and approval of the Office of Human Resource Services;
 - (3) the specific incident, conduct, course of conduct, unsatisfactory work performance or other basis for the disciplinary action;
 - (4) any previous efforts to make the employee aware of the need to change or improve work performance or conduct; and
 - (5) reference to any relevant rule, regulation or policy.

6.3.4 Effect Upon Employee Benefits.

An employee who is demoted or suspended without pay continues to accrue vacation and sick leave, to be covered by group insurance, and to be entitled to other employee benefit programs. If a demotion or suspension without pay is appealed and the appeal of the demotion or suspension is successful, the employee shall be reinstated to the same or similar position and shall be entitled to payment of back wages less any unemployment compensation insurance benefits received by the employee after the date of dismissal.

Employee benefits such as vacation and sick leave shall be credited back to the date of dismissal.

6.4 Procedure for Appeal.

Disciplinary actions resulting in dismissal, suspension without pay, or demotion may be appealed by the affected employee pursuant to the process set out below by submitting a written request for a hearing to the vice president or administrative equivalent for the employee's department. The request must be made within ten (10) working days following the date of the disciplinary action. The failure of the employee to submit the appeal in a timely manner shall constitute a withdrawal of the appeal. The vice president or administrative equivalent shall, at his or her discretion, either hear the appeal in person or appoint a delegate(s) to hear the appeal. The hearing shall be conducted as soon as practical pursuant to the following procedures.

6.4.1 Naming of Delegate.

If the vice president or administrative equivalent elects to appoint a delegate(s) to hear the appeal, the name or names will be furnished to the employee as soon as practical after the selection is made. If more than one person is appointed, one of such persons shall be designated in the notice to the employee to serve as chair.

6.4.2 Challenges as to Fairness.

An employee may challenge the fairness and impartiality of the vice president or administrative equivalent or an appointed delegate(s). The challenge must be in writing and must clearly state the factual basis for the challenge. A challenge of the vice president or administrative equivalent must be made within five (5) days of the date of the request for a hearing and a challenge of a delegate(s) must be made within five (5) days after the date of the notice appointing the delegate(s). It shall be up to the person challenged to determine whether he or she can serve with fairness and impartiality. If the challenged vice president or administrative equivalent determines that he or she cannot be fair and impartial in the consideration of the appeal, he or she shall appoint a delegate(s) to hear the appeal. If a challenged delegate(s) determines that he or she cannot be fair and impartial in the consideration of the appeal, the vice president or administrative equivalent shall appoint another delegate(s).

6.4.3 Exchange of Information.

At least five (5) working days prior to the time set for the hearing, the institutional representative for the appeal and the employee shall furnish each other with the names of the witnesses to be called, a summary of their expected testimony and a copy of each document, record or exhibit to be introduced at the hearing.

6.4.4 Chair.

The vice president or administrative equivalent or the delegate designated as chair shall preside at the hearing and ensure the order of presentation as well as decide on questions of relevancy. The chair shall also have the discretion to determine the length of the hearing and the form and scope of cross-examination allowed during the hearing. Upon request, the chair may consult with and be advised by counsel during the hearing.

6.4.5 Right to Representation.

The employee has the right to be represented at the hearing by an attorney or other individual representative. If the employee is represented by an attorney or an individual from an employee organization, the institution may be represented by an attorney from the institution or the Office of General Counsel of The University of Texas System Administration.

6.4.6 Record of the Hearing.

In all appeal hearings the institution shall make a tape recording of the hearing and make a copy of the tape available to the employee on request. The tape recording of the proceedings shall be the official record of the hearing.

6.4.7 Burden of Proof.

The institution shall demonstrate by the greater weight of the credible evidence that the disciplinary action should be sustained. The institution will present its case first after which the employee shall present his or her case.

6.4.8 Evidence.

The hearing shall consist of testimony by witnesses called by the institution and the employee, with both parties having the right to cross-examine witnesses. Relevant exhibits may be introduced by either party and the chair shall take notice of the employee's personnel record.

6.4.9 Witnesses.

Any employee can be asked to appear as a witness for either party. It shall be the duty of an employee requested to testify to do so as to any facts which may be relevant to the appeal. It is the responsibility of each party to assure attendance by its witnesses.

6.4.10 Notification to Vice President

The delegate(s) shall deliberate, prepare, and forward written findings and recommendations to the vice president or administrative equivalent within ten (10) working days after the close of the hearing.

6.4.11 Employee Notification

The vice president or administrative equivalent shall mail his or her decision to the employee within ten (10) working days following the receipt of the findings and recommendations from the delegate(s).

If the vice president or administrative equivalent has heard the appeal, he or she shall mail a written decision to the employee within ten (10) working days after the close of the hearing.

The decision of the vice-president or administrative equivalent is final.

6.5 Records of Disciplinary Actions.

Copies of all documents pertaining to disciplinary actions shall be filed in the employee's personnel file.

Chapter 7: Policy and Procedure for Grievance

7.1 Policy

It is the policy of The University to encourage fair, efficient, and equitable solutions for problems arising out of the employment relationship.

Complaints concerning wages, hours of work, working conditions, performance evaluations, merit raises, job assignments, reprimands, the interpretation or application of a rule, regulation, or policy shall be considered as grievances and will not be processed through the Discipline and Dismissal Appeal Procedure. Such complaints will be considered on an informal basis in order to allow prompt correction or explanation on the subject of the complaint.

Complaints of unlawful discrimination on any basis, including allegations that the termination of a probationary or temporary employee or an hourly or per diem employee who works on an as-needed basis was for an unlawfully discriminatory reason shall be handled under procedures provided in Section VI - Equal Opportunity of this handbook.

7.1.1 Probationary, Temporary, Hourly, and Per Diem Employees Included

The complaints of all staff employees including probationary and temporary employees and those hourly or per diem employees who work on an as-needed basis will be considered pursuant to the procedure provided below.

7.1.2 Retaliation Prohibited

No employee will be penalized, disciplined, or prejudiced against for exercising the right to make a complaint or for aiding another employee in the presentation of such complaint.

7.2 Procedure for Bringing a Grievance

7.2.1 The employee shall informally present the complaint to his or her supervisor or administrative equivalent for discussion, consideration, or resolution within five (5) working days from the date of the action that is the subject of the complaint. If the supervisor is the subject of the complaint, the employee may address the complaint to the appropriate department head or administrative equivalent.

7.2.2 If the complaint is not satisfactorily resolved by the supervisor or administrative equivalent within five (5) working days, the employee may present the complaint in writing within five (5) working days to the appropriate department head or administrative equivalent for consideration and action. A written decision shall be mailed to the employee within five (5) working days of receipt of the complaint.

7.2.3 If the employee is not satisfied with the decision of the department head or administrative equivalent, a written appeal stating why the appealed decision is incorrect may be made to the appropriate dean, director, or administrative equivalent within five (5) working days of the date of the appealed decision. Within ten (10) working days of the date of the appeal, a written decision shall be mailed to the employee.

7.2.4 Complaints not satisfactorily resolved by the dean, director, or administrative equivalent may be appealed in writing to the appropriate Vice President or administrative equivalent for the employee's department within five (5) working days of the date of the appealed decision. The appeal shall state why the appealed decision is not correct. Within a reasonable time, not to exceed thirty (30) days following receipt of the appeal, a written decision shall be mailed to the employee. This decision is final.

7.2.5 The written complaint and all decisions or responses regarding such complaint shall be a permanent part of the personnel file of the employee.

Chapter 8: Protection from Retaliation from Alleged Wrongdoing

The purpose of this policy is to provide for the protection of individuals from retaliation for good faith actions in reporting, or participating in an investigation pertaining to alleged violations of laws, rules, policies, or procedures applicable to the University.

The University is committed to including employees in the process of ensuring that the University operates in an ethical, honest, and lawful manner.

The University encourages employees to report, or cause to be reported, and to assist in any investigation by persons authorized or responsible for such matters, known or suspected violations of laws, rules, policies, regulations, or improper activities.

The University prohibits unlawful retaliation against employees as a consequence of good faith actions in the reporting of, or the participation in an investigation pertaining to allegations of wrongdoing.

8.1 Reporting of Wrongdoing

All University employees have a personal and professional obligation to report, or cause to be reported, and to assist in any investigation by persons authorized or responsible for such matters, the following (collectively referred to as “wrongdoing”):

- a.** Illegal or fraudulent activity;
- b.** Financial misstatements, or accounting or auditing irregularities;
- c.** Conflicts of interests, or dishonest or unethical conduct;
- d.** Violations of the institution's code of conduct; and
- e.** Violations of other laws, rules, or regulations.

Employees are expected to be truthful and cooperative in investigations of allegations of wrongdoing.

8.1.1 While allegations of possible wrongdoing at the University may be reported through regular administrative or supervisory channels, individuals may also make reports through the following:

- a.** University Compliance Hotline
- b.** University Compliance email address
- c.** University Office of Internal Audit
- d.** University Compliance Officer
- e.** University Ethics Officer

8.1.2 If the alleged wrongdoing is significant or widespread or applies to the University as a whole, or if the individual is uncomfortable reporting the matter through local administrative channels at the University, the individual may make a report to the:

- a.** U.T. System Compliance Hotline;
- b.** U.T. System-wide Compliance email address;
- c.** U.T. System Internal Audit Executive;
- d.** U.T. System Compliance Officer;
- e.** Vice Chancellor and General Counsel and U.T. System Ethics Officer.

8.2 Protection from Retaliation

8.2.1 No employee shall take any disciplinary or retaliatory action against any individual for, in good faith, reporting, or causing to be reported, suspected wrongdoing, or for assisting in an authorized investigation of alleged wrongdoing. The prohibition against disciplinary action does not extend to disciplinary action for self-reported violations.

8.2.2 If an employee believes that he or she has been subjected to any action that violates the non-retaliation provisions in this policy, the employee may file a complaint in accordance with the procedures adopted by the employee's institution pursuant to procedures set forth in this policy.

8.2.3 If it is determined through the retaliation complaint proceedings that an employee has experienced retaliation in violation of this policy, the University shall take the appropriate corrective action.

8.2.4 This policy does not protect an employee who files a report or provides information that he or she knows to be false or who does not have a reasonable belief in the truth and accuracy of the information. An employee who is determined to knowingly have made false accusations or given false information during an investigation may be subject to disciplinary action, including termination of employment, in accordance with applicable institutional policies and procedures.

Additional information regarding the procedures and guidelines for reporting allegations of wrongdoing can be located at <http://www.utsystem.edu/bpm/67.htm>

Chapter 9: Drug and Alcohol Policies

9.1 Drug-Free Work Place Policy

The University of Texas at El Paso is required by the Drug-Free Work Place Act of 1988 (41 U.S.C.A. 701-707) to notify all employees that the unlawful manufacture, sale, distribution, possession, or use of a controlled substance in or on any premises or property owned or controlled by the University is prohibited. A controlled substance is any substance so defined by federal or state statute or regulation. Any employee who is found guilty (including a plea of no contest) or has a sentence, fine, or other penalty imposed by a court of competent jurisdiction under a criminal statute for an offense involving a controlled substance that occurred in or on premises or property owned or controlled by the University shall report such action to the Human Resource Services Office within 5 days. An employee who unlawfully manufactures, sells, distributes, possesses, or uses a controlled substance in or on premises or property owned or controlled by the University, regardless of whether such activity results in the imposition of a penalty under a criminal statute, will be subject to appropriate disciplinary action, including termination, or will be required to participate satisfactorily in an approved drug assistance or rehabilitation program or both.

9.2 Drug and Alcohol Testing

As required by 3.9, above, all persons who are applicants for or who are employed as Commissioned Police Officers, in positions with duties or activities that require possession of a commercial driver's license, or in certain other security-sensitive positions, will be required to provide a urine sample for testing for the presence of illegal drugs and/or alcohol. The provisions of this drug and alcohol testing policy do not relieve an employee from requirements imposed pursuant to other University policies on drugs and alcohol.

9.2.1 Security sensitive positions are restricted to those positions described in *Texas Education Code* § 51.215(c) and *Texas Government Code* § 411.094(a)(2), as those sections may be amended from time to time. For additional definitions regarding positions classified as security-sensitive, please refer to Chapter 12.5.1 (a-m). A security-sensitive position will be identified in the job description and in advertisements for the position.

9.3 Prohibited Employee Conduct

9.3.1 The following conduct involving alcohol use is prohibited:

- a.** use or possession of alcohol while on duty requiring the performance of safety-sensitive functions;
- b.** use of alcohol during four hours before on duty requiring the performance of a safety-sensitive function;
- c.** having prohibited concentrations of alcohol (.04 or greater) in system while on duty requiring the performance of safety-sensitive function;
- d.** use during the 8 hours following an accident requiring a post-accident test or until the employee undergoes a post-accident alcohol test, whichever occurs first.

9.3.2 The following conduct involving drug use is prohibited:

- a.** use or possession of controlled substances while holding a position requiring the performance of safety-sensitive functions, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial vehicle;
- b.** testing positive for controlled substances while holding a position requiring the performance of a safety-sensitive function;
- c.** permitting a subordinate employee to perform or continue to perform safety-sensitive functions when the supervising employee has actual knowledge that a driver has engaged in prohibited conduct.

9.4 Employee Testing

Employees in positions that involve the duties or activities described in 9.2 may be required to submit to testing to determine the presence of illegal drugs or alcohol under the following circumstances:

- a.** when involved in an on-the-job driving accident that results in the death of a person or that results in a citation to the employee under state or local law for a moving traffic violation arising out of the accident;
- b.** when observed using alcohol or illegal drugs while on duty requiring the performance of safety-sensitive functions;
- c.** when a supervisor who has participated in a program that provides training in the recognition of the physical appearance and behavior of persons under the influence of alcohol or illegal drugs observes an employee exhibiting such appearance and behavior during, just preceding, or just after the period of the work day that the employee is performing in the safety-sensitive function;
- d.** when selected pursuant to a scientifically valid random process determined by the University;
- e.** when returning to duty in a position described in 9.2, after a violation of drug or alcohol rules;
- f.** when returning to duty for a position described in 9.2, and has been identified by a substance abuse professional as needing assistance in resolving problems with drug or alcohol abuse. Such employees will be subject to a minimum of six unannounced follow-up drug or alcohol tests over the first 12 months following his or her return to duty.

9.5 Refusal to Submit to Test

The University will secure a consent form signed by the employee to be tested. An employee who refuses to consent and submit to a test when requested under any of the circumstances provided for in 9.4 above will be subject to disciplinary action, including termination pursuant to the University's Procedures for Discipline and Dismissal of Employees. Refusal to submit includes failure to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provision of this policy; failure to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this policy; and engaging in conduct that clearly obstructs the testing process.

9.6 Positive Test

Employees with positive tests will be immediately removed from safety-sensitive functions. The supervisor and the Director of Human Resource Services will meet with each employee who tests positive and inform the employee of the test result. Based upon the information available after the meeting with the employee, the supervisor and Director shall determine whether:

- a.** to proceed to impose appropriate disciplinary action, keeping in mind any minimum penalties as may be required by federal or state law, pursuant to the University's Procedures for Discipline and Dismissal of Employees;
- b.** to offer the employee the opportunity to participate in and satisfactorily complete an appropriate employee assistance program or rehabilitation program for alcohol and/or drug abusers as a condition of continued employment. An employee who chooses to participate in such a program must be informed that the University will pursue appropriate disciplinary action if the employee does not satisfactorily complete the prescribed program; or
- c.** the employee will be allowed to return to work after at least a 24-hour period.

9.7 Urinalysis Procedure

In order to assure individual privacy without compromising the integrity of the test result, the University will utilize the mandatory Guidelines for Federal Workplace Drug Testing Programs and the Procedures for Transportation Workplace Drug Testing for tests pursuant to this policy. Those Guidelines are published in Volume 53 of the Federal Register, pages 11979-11989 and Volume 59 of the Federal Register, pages 7354-7357.

9.8 Alcohol Testing

The University will utilize the Procedures for Transportation Workplace Drug and Alcohol Testing Programs for alcohol tests pursuant to this policy. Those procedures are published in Volume 59 of the Federal Register, pages 7340-7376.

9.9 Records

Please refer to the next section

9.9.1 Confidentiality

All information from an applicant's or an employee's drug and alcohol tests is confidential. Testing records will be maintained in a secure manner, so that disclosure of information to unauthorized persons does not occur.

9.9.2 Maintenance

Records will be maintained in accordance with the following schedule:

- a.** verified positive controlled substance test results and alcohol test results indicating an alcohol concentration of 0.02 or greater; documentation of refusals to take required tests; calibration documentation; evaluations and referrals - 5 years;
- b.** collection and training records - 2 years;
- c.** negative or canceled tests - 1 year;
- d.** alcohol test results indicating concentration less than 0.02 – 1 year.

9.10 Reporting

The University will submit reports in accordance with Federal Regulations regarding this alcohol and drug misuse prevention program.

Chapter 10: Reduction in Force Policy

10.1 Reduction in Force of Classified Staff

When financial conditions and prudent management so require, a reduction in force of classified staff may become necessary to respond quickly to a financial exigency or to implement a reorganization to avoid future insolvency, improve efficiency and/or effectiveness, or otherwise respond to necessary change in programmatic requirements. This policy is not applicable to faculty positions which are covered by Section III, Chapter 4 or to non-classified A/P staff who serve at the pleasure of the President.

10.1.1 A University-wide reduction in force may be initiated upon approval of the President of a recommendation by the Vice President for Business Affairs which details the nature and extent of the institutional financial exigency. Upon declaration of a University-wide financial exigency by the President, each Vice President shall direct preparation of required documentation describing the proposed response to the financial exigency by any affected units supervised by that Vice President for approval of the President before implementation of any reduction of force.

10.1.2 A reduction in force of a lesser scale arising from financial exigency or the need for implementation of an internal reorganization affecting a division, department, or program may be initiated upon approval of the President of a recommendation by the appropriate Vice President of the division, department, or program so affected and upon preparation of required documentation describing the reasons for and impact of any proposed actions.

10.2 Planning Requirements

As an essential element to the preparation of the documentation required before any proposed reduction in force is considered, the following planning must occur:

10.2.1 A determination of alternatives that may eliminate the need or limit the scope of a reduction in force shall be made. Such alternatives include, but are not limited to, use of job sharing, temporary leaves of absence without pay, attrition, pay reductions through demotions to positions of lesser responsibilities, or reassignment to part time service;

10.2.2 Review of the business functions of the affected unit and the budgeted positions that perform those functions to identify those functions and positions that are essential to the continued provision of current and future services required by the University, and those that can be altered, combined, or eliminated with least effect on the existing work force, and the provision of necessary services by the unit.

10.3 Required Documentation

To document the conduct of appropriate planning and to facilitate timely administrative review and approval of the findings and recommendations arising thereof, a report shall be prepared by each affected unit that contains the following:

10.3.1 Factual information that establishes the existence of a financial exigency if less than University-wide, or that a proposed reorganization will result in a more cost-effective or efficient administrative unit or respond to required programmatic changes;

10.3.2 A description of the functions or services provided by the administrative unit affected by the proposed reduction in force;

10.3.3 A discussion of the alternatives considered to any proposed reduction in force, including whether any alternatives were implemented to lessen the proposed actions or an explanation as to why any alternatives considered were not feasible;

10.3.4 Identification of the services, functions, or positions that will be affected by the proposed reduction in force, and a description of how those positions, functions, or services will be combined, altered, or eliminated and the rationale for the proposed combination, alteration, or elimination;

10.3.5 Identification of each employee proposed for termination under the reduction in force and selected in accordance with the criteria in 10.4 below.

10.4 Terminations

When financial exigency or reorganization results in the need to terminate employees, the head of the administrative unit proposing the reduction shall be responsible for recommending which employees be terminated. The criteria to be used for making the selections should include:

10.4.1 Regular, full-time employees (having completed the initial probationary period) will be given preference for retention over part time, temporary, or hourly employees unless it has been determined to be in the best interest of The University of Texas at El Paso to employ part-time, temporary, or hourly employees for the remaining available positions.

10.4.2 Evaluation of the qualifications and past work performance of the current employees as evidenced by written evaluations or other documentation to determine those best suited to meet the job requirements remaining after the reduction;

10.4.3 University seniority will be the determining criteria in those cases where employees are judged to be equally qualified.

10.5 Notice Requirement

When a proposed reduction in force has been reviewed and approved by the appropriate Vice President, the employees who are to be terminated shall be provided with as much advance written notice as possible.

10.5.1 To the extent possible, notice shall be provided sixty (60) days in advance of the proposed date of termination.

10.5.2 The written notice of termination shall include an explanation of the reasons for the reduction in force or reorganization.

10.6 Grievance Procedures

10.6.1 An employee who is to be terminated may grieve that decision to the head of the affected administrative unit within ten (10) working days of receiving notice of termination. The reasons for grieving shall be limited to claims that a financial exigency does not exist, that the reorganization was not bona fide, that a comparison of the employee's qualifications and performance with those of employees who were retained shows that the selection of the employee was arbitrary and without reason, or that the termination decision was made for reasons that are unlawful under state or federal laws.

10.6.2 The grievance shall be in writing and shall state the facts that support the employee's allegations. The employee shall have the burden of proof with respect to the allegations.

10.6.3 The head of the administrative unit shall respond to the grievance within ten (10) days of its receipt.

10.6.4 If the employee is not satisfied with the response, he or she may, within five (5) working days of response, appeal in writing to the appropriate Vice President stating why the appealed response is incorrect. The Vice President shall review the grievance and response and provide a written decision to the employee by mail within thirty (30) days of receipt of the appeal. The decision of the Vice President shall be final.

10.7 Re-employment

Special consideration for re-employment will be given to employees terminated due to a reduction in force. As jobs become available at the University within the same job classification, or in classifications requiring similar skills and training, reasonable effort shall be made to notify and re-employ qualified former employees terminated pursuant to a reduction in force. Re-employment shall include the following:

10.7.1 The Office of Human Resource Services shall keep a list of names of employees terminated because of a reduction in force for a period of six (6) months.

10.7.2 When a department has a vacant position, employees laid off within the previous six (6) months as the result of a reduction in force and who are qualified for the position may be interviewed and an offer made for re-employment without further compliance with University requirements for recruitment advertising and additional interviewing for the position.

10.7.3 A notice of the availability of a position for which the former employee meets the minimum qualifications shall be sent to his or her last known address by registered or certified mail for six (6) months following termination pursuant to a reduction in force. It shall be the responsibility of the former employee to notify the Office of Human Resource Services of their intent to accept or decline the opportunity to be considered for any position of which they are so advised.

10.7.4 A reasonable period of time, not to exceed ten (10) working days from the post-marked date of the notification letter shall be provided to allow the former employee to apply for the available position or reject the re-employment opportunity. Former employees who are notified and fail to respond within ten (10) working days from the post-marked date of the notification letter, or reject an offer of re-employment may be removed from the re-employment list.

10.7.5 Any former employee will have his or her sick leave balance restored if re-employed by The University of Texas at El Paso within twelve (12) months of the initial lay-off.

Chapter 11: Teaching Duties & Related Compensation for FT Administrators of Non-Faculty Employees

The University restricts teaching activities in addition to regular duties and extra compensation arising thereof for administrative staff employees.

11.1 Administrative staff who qualify for regular faculty appointments and who wish to teach are encouraged to accept occasional teaching assignments in addition to their regular administrative duties. Such assignments shall be limited to no more than one course per year; shall be without additional compensation; and shall be approved by the appropriate supervisor(s).

11.2 An administrative staff member may accept a teaching assignment on a regular continuing basis, with approval of his/her supervisor(s). In such cases, an adjustment shall be made in his/her appointment to reflect the split assignment. Separate academic and administrative professional compensation rates will be established, and an adjusted full-time salary will be derived from these two rates.

11.3 In unusual circumstances, when the need for an emergency faculty assignment arises, administrative staff who qualify for regular faculty appointments may be authorized on an exceptional basis to perform teaching duties for additional compensation, provided that the staff member's primary administrative responsibilities will not be disrupted by this special assignment. Such exceptions must be approved by the appropriate supervisor(s) and will be granted on a one-time-only basis.

Chapter 12: Criminal Background Checks

12.1 Criminal History Record Information

It is the policy of the University to obtain:

- a. criminal history record information on applicants who are selected as finalists, following the normal screening and selection processes, for a security sensitive position;
- b. criminal conviction record information on a current employee who is selected as the finalist for a transfer, promotion, or reclassification from a non-security sensitive position to a security sensitive position;
- c. criminal conviction record information on a current employee who is selected for a transfer, promotion, or reclassification from one security-sensitive position to another security-sensitive position and on whom the institution did not previously obtain either criminal history record information or criminal conviction record information within the past two(2) years;
- d. criminal conviction record information of individuals or employees of companies or entities contracted by the University, where these individuals or employees will perform duties or services on the University premises; and
- e. at the discretion of the President, or the President's designee, criminal conviction record information available to the public on a current employee, if the requesting official determines that obtaining such information serves an official or business purpose.

12.1.1 Exceptions

Exceptions to this policy may be authorized by the Human Resources Services for personnel actions involving:

- a. position reclassifications that result in a title change with no change in current responsibilities;
- b. career job or job family progression promotions occurring within the current department (e.g., associate professor to full professor or staff assistant to senior staff assistant);

- c. involuntary transfers or reclassifications.

12.2 Applicability

This policy applies to all University or contracted employment positions, whether full-time, part-time or temporary, faculty, staff or student positions, determined to be security sensitive by the University in accordance with *Texas Education Code* § 51.215(c) and *Texas Government Code* § 411.094(a)(2), as those sections may be amended from time to time.

12.2.1 Any individual who applies for a position with the University, whether the individual is an outside candidate or a current employee of the University, is considered an applicant subject to this policy.

12.2.2 Any individual who is employed by a private contractor, including agencies providing temporary employees, for work on University property is subject to this policy. Temporary employment agencies are required to conduct criminal background checks for temporary workers provided by the agency for security sensitive duties. Private contractors are required to conduct criminal background checks for their employees who work on University property in security sensitive areas.

12.2.3 Any current employee is subject to this policy if the President or the President's designee requests that a current employee complete the Criminal Background Check Form pursuant to this policy. If a current employee refuses to complete, sign, and submit the Criminal Background Check Form in response to a request made in accordance with this policy, appropriate action may be taken including reassignment, discipline, or discharge.

12.3 Information

A criminal background check consists of the following:

- a. Criminal Conviction Record Information which is public information maintained by the Department of Public Safety, as provided in *Texas Government Code* § 411.135;
- b. Criminal History Record Information which is information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions, as more fully described in *Texas Government Code* § 411.082.

12.4 Procedures and Guidelines

12.4.1 Under the direction of the Executive Vice President for Institutional Advancement and Oversight, the Director of Human Resource Services will recommend positions and/or areas to be designated as security-sensitive for the University. Each office at the University will be reviewed periodically to determine whether it will be designated as a security-sensitive area. Should an office not be designated as a security-sensitive area or should a previously designated office cease to be considered a security-sensitive area, then the individual positions within the office will be evaluated, in light of the legal criteria, to determine security-sensitive status. Security-sensitive areas/positions designated by the University shall include, but are not limited to the following:

- a.** all senior level administrator positions. Senior level administrative positions at the University are defined as executive officers and administrative officers;
- b.** areas that have responsibility for providing patient care or for providing child-care in a child-care facility, as that term is defined in *Texas Human Resources Code* § 42.002(3), as it may be amended from time to time;
- c.** areas that have direct access to, or responsibility for, pharmaceuticals, select agents (as defined by the Code of Federal Regulation), or controlled substances (as defined by the *Texas Health & Safety Code* § 481.002). These positions are those who ship, transport, possess, receive, or have access to any select agent or who works in or has access to an area in which any select agent is stored, used, disposed of, or present, whether on a temporary or permanent basis;
- d.** areas that have direct responsibility for the care, safety, or security of humans or the safety or security of personal or University property;
- e.** areas that have responsibility for operating, in the course of normal job duties, the University-owned or leased vehicles, machinery, or toxic systems that could cause death, injury, or health problems;
- f.** areas with significant inventory control responsibilities, including receipt and release of inventory;
- g.** areas that have direct access to, or responsibility for, cash, checks, or University property, disbursements, or receipts;
- h.** areas with responsibility for execution or approval of financial transactions;
- i.** areas with direct access to, or responsibility for, classified information pertaining to national defense;
- j.** areas with unsupervised access to the University employee or student property, including access to student dorm rooms, in the course of normal job duties;
- k.** areas with responsibility for the preparation, maintenance or approval of the financial, payroll, personnel, or purchasing systems;
- l.** areas with direct access to sensitive data, including data protected by Federal or State law, student records, medical records, personnel records, other personal data or confidential criminal justice information, or to critical data processing systems;
- m.** areas with activities or programs involving minor children.

12.4.2 A security-sensitive position shall be so identified in the job description and advertisement for the position with the following statement:

“This position is security-sensitive and subject to Texas Education Code §51.215, which authorizes the employer to obtain criminal history record information.”

12.5 Criminal History and Conviction Investigations

12.5.1 The hiring official will be responsible for requesting that an applicant who is the finalist for a security-sensitive position completes Criminal Background Check Form. The hiring official will forward the completed and signed form to the Office of Human Resource Services (HRS). An applicant who refuses to complete, sign, and submit the form will be removed from further consideration for the position.

12.5.2 In the event criminal history information is unavailable for an applicant for a security-sensitive position, the University reserves the right to obtain a complete set of fingerprints. If the applicant fails to provide a complete set of fingerprints on request, the applicant will not be considered for the position for which he or she has applied.

12.5.3 Only HRS is authorized to initiate requests for criminal history or conviction record information. Any criminal history or conviction information received by the University from a designated third party vendor authorized to conduct the criminal background check will be reviewed, and analyzed by the University Police Department. The University Police Department will notify HRS of the results of the investigation, and HRS will, in turn, notify the hiring official of the results.

12.6 Use of Criminal History Record Information

Criminal history or conviction record information will be used only to evaluate applicants for employment for security-sensitive positions or as stated in this policy, and shall in no way be used to discriminate on the basis of race, color, national origin, religion, sex, disability, sexual orientation, or age. Criminal history or conviction record information obtained pursuant to this policy and procedures memorandum will be regarded as confidential as required by law and will not be made part of the applicant's file or the employee's personnel file when prohibited by law or communicated to any unauthorized person. Under *Texas Government Code* § 411.085, the unauthorized release of criminal history record information is a *criminal offense* and, consequently, the institution should seek legal advice with respect to any requested release of such information.

12.7 Employment Decisions and Actions

12.7.1 If circumstances require that an offer be made before the completion of an investigation, the offer must be in writing and contain the following statement: "*This offer is contingent on the completion of a satisfactory criminal background investigation.*" The individual to whom the position is offered may not begin work until the requirements of this chapter have been met.

12.7.2 If the Director of HRS advises the hiring official that the results of the criminal background check indicate that the applicant may be unacceptable for the position being filled or for continued employment, HRS will provide an applicant with a copy of the report upon which this advice is based and a summary of the consumer's rights, if the report was obtained by a consumer reporting agency (CRA.) In this case, HRS will also, notify the applicant if the position is denied on the basis of such a report, provide the applicant with the name, address and phone number of the CRA that furnished the report, notify the individual that they may obtain a free copy of the report from the CRA within 60 days and dispute with the CRA the accuracy of information in the CRA furnished. A hiring official may not extend an offer to the applicant that HRS has advised may be unacceptable without the prior written approval of the President, or his/her respective designee.

12.7.3 Should a criminal background investigation indicate that a current employee may be unsuitable for continued employment, HRS will recommend to the division vice-president, or their respective designee, that appropriate action, including termination of employment, be taken. HRS will provide an applicant with a copy of the report upon which this advice is based and a summary of the consumer's rights, if the report was obtained by a consumer reporting agency (CRA). In this case, HRS will also, notify the applicant if the position is denied on the basis of such a report, provide the applicant with the name, address and phone number of the CRA that furnished the report, notify the individual that they may obtain a free copy of the report from the CRA within 60 days and dispute with the CRA the accuracy of information in the CRA furnished.

12.7.4 The University does not automatically disqualify all individuals with conviction records from employment. Consideration as to the date and nature of the criminal offense will have a bearing on whether the individual on whom the check is being conducted will be acceptable for hire, promotion, reclassification, or transfer. In the event the investigation reveals criminal convictions or other relevant information, the hiring official will consult with the Office of Human Resource Services in these circumstances and determine whether the individual is qualified based on factors such as:

- a. specific duties of the position;
- b. number of offenses;
- c. nature of each offense;
- d. length of time intervening between the offense and the employment decision;
- e. employment history;
- f. efforts at rehabilitation; and
- g. accuracy of the information that the individual provided on the employment application.

The ultimate responsibility of the decision to hire or reject an individual will rest with the hiring official and the divisional vice-president, after consulting with the Office of Human Resource Services.

12.8 General Responsibilities

12.8.1 The hiring official has the following responsibilities:

- a. to ensure that the appropriate criminal background check is completed before a job offer is extended, unless the offer is made contingent on the completion of a satisfactory investigation;
- b. to remove from consideration for employment any applicant whose criminal background information proves to be unacceptable, given the nature and responsibilities of the position. This decision must be made upon consultation with the Office of Human Resource Services, hiring official, and the divisional vice-president.

12.8.2 The University Police Department has the following responsibilities:

- a. to review and analyze criminal history or conviction information obtained from a designated third-party vendor authorized to conduct the criminal background check. in compliance with applicable law.
- b. to communicate the review and analysis of the information to HRS;
- c. to retain in a secure place the criminal background check information and, at the expiration of 180 days after the date that the investigating official obtained the criminal background check information, to destroy that documentation. After the expiration of the probationary term of the individual's employment, the Chief of Police, or his/her designee shall destroy all criminal history record information that UTEP has obtained about the individual. If the position is one that does not have a probationary period, then the Chief of Police shall destroy the information 180 days after the University obtains it.

12.8.3 The Office of Human Resource Services has the following responsibilities:

- a. To enter the appropriate data from an applicant's criminal background check form into a designated third-party vendor database, as applicable.
- a. to assist and educate hiring officials on their responsibilities and liabilities with respect to criminal background investigations and the information contained in such investigation reports;
- b. to monitor compliance with requirements of this policy and procedure and to monitor changes in the law applicable to the subject of this policy.

12.9 Authority

The statutory authority for this policy and procedure is provided by:

- a. *Texas Education Code § 51.215. Access to Police Records of Employment Applicants*
- b. *Texas Government Code § 411.094. Access to Criminal History Record Information: Institution of Higher Education*
- c. *Texas Government Code § 411.135. Access to Certain Information by Public*

Questions regarding compliance and other issues related to security-sensitive positions should be addressed to the UTEP Office of Human Resource Services and the Office of Institutional Compliance.

Chapter 13: Accounting for Work Time

All full-time classified and administrative and professional employees (A&P) are expected to provide a minimum of 40 hours of labor per week to perform their assigned duties consistent with normal University business operating hours or an alternative work schedule assigned by a supervising official. Part-time employees are expected to provide a minimum number of hours proportionate to the percent time of their employment.

Time worked by University classified and, when required, administrative and professional employees, must be accurately reported, documented, and properly accounted for in a timely and prescribed manner. Employees who fraudulently record or otherwise claim hours worked are subject to disciplinary action under the University's Discipline and Dismissal Policy, up to and including termination.

13.1 Overtime

The schedule of University work activities shall be so organized that non-exempt employees are not required to work in excess of 40 hours within an established work week except when required by operating necessities. Any such requirement for overtime services must be justified in writing and have the advance approval of the Vice President for Business Affairs.

13.1.1 The Fair Labor Standards Act classifies job duties as either "exempt" or "non-exempt" for overtime payment purposes.

a. Non-exempt employees will be compensated or provided with appropriate compensatory time for hours worked in excess of those specified by law. Employees who work in exempt supervisory positions including all executive, administrative, and professional appointments. Are not eligible for overtime or FLSA compensatory time. Identification of University positions that are classified as "exempt" and "non-exempt" can be obtained from the Office of Human Resources Services.

b. Exempt employees are not eligible for FLSA overtime or State compensatory time except for time worked during holidays observed by the University.

13.1.2 With the exception of professional medical personnel and bona fide executive, administrative, and professional positions, all employees required or permitted to work in excess of 40 hours per week shall be compensated for such overtime either by:

a. receiving compensatory time off at the rate of one and one-half hours off for each hour of overtime, subject to the accrual limitation of 480 hours in the case of personnel engaged in public safety or emergency response activities, or 240 hours for other categories of employees. Such compensatory time off shall be granted at a mutually convenient date anytime during the 12-month period following the end of the workweek in which such compensatory time is accrued, or during a shorter time period as specified by the component institution; or

b. in cases where granting compensatory time is impracticable, by receiving pay equivalent to one and one-half times the regular rate of pay.

13.1.3 Compensatory time, if any, for those employees excepted from this provision shall be determined by the President.

13.2 Time-Keeping Required

13.2.1 All hourly and non-exempt classified employees must document time worked on a daily basis and are required to complete a bi-weekly or monthly time sheet/record to record time worked. The time sheet/record must also reflect all paid leave use for the respective time period.

13.2.2 The employee will verify the time worked and sign the time sheet/record for each workweek and submit it to the employee's respective supervisor or department head for verification, approval, and entry into the University payroll system.

13.2.3 "Hours worked" includes all of the time during which an employee is on duty on the University's premises or prescribed workplace, as well as other time during which the employee is required or permitted to work for the University. This includes:

a. Time during which an employee is assigned or authorized by

University administration to attend local, off-campus business meetings, conferences, or to conduct other work;

b. Travel time on University business during normal work hours, but time after normal work hours, during which an employee attends a University-sponsored or sanctioned event is not included if attendance is not required by University administration;

c. Time for travel outside the city on approved travel for the conduct of University business shall be credited the same as normal work hours, but hours after normal work hours are not included.

13.3 Attendance

All staff employees, both classified and non-classified, are expected to be present at their assigned work place for the full period of time for which they are employed by the University.

13.3.1 An employee unable to report to work on a timely basis should communicate with his/her immediate supervisor regarding the tardiness or absence. If an employee fails to notify his/her supervisor for three (3) consecutive work days of the reason for an absence, the employee is considered to have abandoned his/her position and is subject to discharge.

13.3.2 An employee who is repeatedly tardy to, or absent from work is subject to disciplinary action up to and including termination of employment under the University's Discipline and Discharge Policy.

13.4 Compensation for Emergency Leave

13.4.1 Scope. This policy applies to all Classified benefit eligible employees.

13.4.2 Policy. Although the university will make every effort to remain open on scheduled workdays, there may be instances where conditions make it impossible to do so. These conditions include, but are not limited to, severe weather, declared state of emergency, utility disruptions, natural disasters, and terrorist actions. In such cases, the President or designee may declare an Emergency Leave.

For the purpose of this policy, the declaration of the Emergency Leave will include the start date and start time of the Emergency Leave. Subsequently, the end date and the end time of the Emergency Leave will also be designated.

13.4.3 Emergency Leave Pay and State Compensatory Time. Eligible employees, as described under Scope, who are scheduled to work (not scheduled for vacation, sick leave or any type of paid or unpaid leave of absence) and are prevented from completing their normally scheduled workday due to a declaration of an Emergency condition, will be compensated as follows:

Non-Essential Positions. Employees who are in non-essential emergency positions will be allowed to leave and will be compensated for the hours that are missed during the declared emergency, through the end of their normally scheduled workday, as Emergency Leave Pay.

Essential Positions. Essential Employees to an emergency condition are required to remain at work or report to work as needed and determined by the declared Emergency Leave. Essential Employees who work during a declared Emergency Leave will be paid for their actual time worked and also earn the appropriate State Compensatory Time as applicable for the hours declared Emergency Leave.

Procedures and eligibility requirements for overtime and compensatory time can be found in the University's Pan Plan Policy: Overtime/Compensatory Time.

Employees who are not scheduled to work when an Emergency Leave is declared are not eligible for Emergency Leave Pay.

Employees who do not report to work or who leave prior to an Emergency Leave being declared are not eligible for Emergency Leave Pay. In such cases, vacation or leave without pay shall be used for full scheduled hours missed.

Emergency Leave time will not be used in calculating overtime payment.
[This policy is supported by Government Code 661.902(b).]

Chapter 14: Vacation Leave

14.1 Eligibility - Staff Employees Only

All staff employees appointed for minimum of twenty (20) hours per week or more accrue vacation leave beginning with their first day of service. One month's accrual is given to an employee for each month or fraction of a month actually worked, regardless of the date of employment or termination. Accrual rates, as established by the State Legislature, are published annually by the University and are available from the Office of Human Resource Services. Faculty appointments do not accrue vacation leave time.

14.2 Accrual

A staff employee accrues vacation leave at a rate based on length of state service and hours appointed per week. Employees appointed for forty (40) hours per week accrue 100% of the allowed hours for their length of State service. Part-time personnel appointed half-time or more accrue vacation leave proportionate to the percent time of their appointment. Rates of accrual are established by the State Legislature and are published annually by the Office of Human Resource Services.

14.2.1 To insure appropriate accrual of vacation leave, new employees with prior service with the State of Texas must advise The Office of Human Resource Services at the time of employment HRS will secure written appropriate verification from the previous employing agency or agencies of the prior service.

14.2.2 Vacation should be taken during the fiscal year in which it accrues. If this is not possible, vacation accrual may be carried forward to the next fiscal year to the extent permitted by State law. Vacation time accrued over the maximum amount allowed will be automatically transferred to sick leave balances at the end of each fiscal year.

a. Holiday time taken during vacation leave will not be charged against the employee's vacation accrual.

b. No vacation leave is earned while the employee is on unpaid leave status, including military leave.

14.2.3 A staff employee who resigns or is separated from University employment is entitled to a "lump sum" payment of accrued vacation time, provided the employee has completed the initial six (6) months of employment. In the event of the death of any employee who has accrued vacation time, the estate will be paid a "lump sum" payment.

14.3 Utilization

Requests to take Vacation Leave must be made in advance in writing to the employee's immediate supervisor on the appropriate University form for requesting leave time, as provided for in Chapter 22 below. Supervisors shall review the request, verify eligibility, assess departmental needs, and approve or disapprove the request. Fair and equal consideration will be given to all requests for Vacation Leave and, where possible, the employee's request will be approved. Disapproval shall be based solely on a lack of eligibility or undue disruption of departmental operations, and the reasons shall be provided to the employee in writing. In cases of conflict with departmental needs, acceptable alternative dates for taking leave time must be provided to the employee. Vacation Leave taken without prior written approval of the appropriate departmental supervisory official will not be paid and will be construed and recorded as an "Unexcused Absence."

Chapter 15: Sick Leave

15.1 Eligibility - Staff and Faculty Employees

All regularly appointed faculty and staff employees who are appointed to work twenty hours or more per week and for at least four and one half months are eligible for paid sick leave from the first day of employment. Students employed in positions which require student status as a condition for employment do not accrue sick leave time.

15.2 Accrual

Sick leave is accrued at the rate of eight hours per month for full-time service. Part-time employees appointed for 20 or more hours per week will accrue a proportionate amount of sick leave based upon the percentage of employment.

One month's accrual is given an employee for each month or fraction of a month actually worked regardless of the date of employment or termination. There is no maximum amount of paid sick leave that may be accrued.

15.2.1 An employee who transfers from another University of Texas System component institution or other state agency or institution without an interruption in employment will be credited with any prior accrued sick leave as certified in writing by the institution or agency from which the employee has transferred.

15.2.2 No employee may accrue sick leave while on leave without pay including military leave.

15.3 Utilization

Sick leave with pay may be taken when sickness, injury, or pregnancy and confinement prevent the employee's performance of duty or when the employee is needed to care and assist a member of his or her immediate family who is actually ill. For purposes relating to regular sick leave, immediate family is defined as those individuals related by kinship, adoption, marriage, or foster children who are so certified by the Department of Human Services who are living in the same household or, if not in the same household, are totally dependent upon the employee for personal care or services on a continuing basis.

In order to be eligible for sick leave with pay, an employee must report promptly by telephone to their supervisor the reason for their absence. If absence is of more than three days duration, the supervisor should be notified of the employee's condition. A doctor's note will be required.

15.3.1 The University may, at its discretion, require an employee to submit proof that the absence was necessary and due to illness or injury. The University may also require proof, before an employee returns to work, that he or she is physically fit to return. Any employee who is found to have obtained sick leave pay under false pretenses is subject to disciplinary action up to and including termination of employment under the University's Discipline and Discharge Policy.

15.3.2 Sick leave with pay will be granted only when the employee applies for it upon return to work and eligibility is verified by the supervisor or appropriate administrative officer. Supervisors may request a doctor's note for sick leave less than three days. An employee whose sick leave balance is insufficient to cover additional absences will have the option to utilize accrued vacation leave before being placed on a leave without pay, provided the employee has completed the six-month probationary period. Unearned sick leave may not be advanced and taken by an employee except as provide for under Chapter 16 below for use of the University Sick Leave Pool.

15.3.3 In the event of an on-the-job injury to an employee that results in lost work time, the employee may elect to use accrued sick and/or vacation leave during the one week waiting period before Worker's Compensation Insurance (WCI) benefits go into effect. If the person chooses not to do this, the person will be placed on a leave without pay status for that week. In no event can a person receive WCI benefits while on a paid status with the University.

15.3.4 Employees will not receive payment for unused allowance of sick leave at the time of separation. In the event of the death of an employee who has an accrued sick leave balance, the estate will be paid for one half of the accrued sick leave balance or for three hundred thirty-six hours of sick leave, whichever is less. The payment will be calculated at the employee's rate of compensation at the time of death.

Chapter 16: Sick Leave Pool

16.1 Eligibility

In order to alleviate the hardship caused to an employee and the employee's family arising from a potential loss of compensation when a catastrophic illness or injury forces the employee to exhaust all accrued leave time, employees of the University are eligible to apply to use time from the Sick Leave Pool.

16.1.1 A "catastrophic illness or injury" is a severe condition or combination of conditions affecting the mental or physical health of the employee or a member of the employee's immediate family that requires the services of a licensed practitioner for a prolonged period of time and that forces the employee to exhaust all leave time earned by that employee and therefore lose compensation from the University until the employee is able to return to work.

16.1.2 "Licensed practitioner" means a practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of his or her license.

16.1.3 "Immediate family" is defined by State Government Code 661 and includes individuals related by kinship, adoption, marriage, or foster children who are so certified by the Texas Department of Human Services who are living in the same household or, if not in the same household, are totally dependent upon the employee for personal care or services on a continuing basis.

16.1.4 The Sick Leave Pool is administered by the Office of Human Resource Services (HRS).

16.2 Contribution of Time

Any University employee eligible to earn and accrue sick leave may contribute time to the Sick Leave Pool.

16.2.1 An employee may transfer/contribute unlimited hours to the pool, in units of eight (8) hours by submitting a transfer form to HRS. Retiring employees are also permitted to contribute to the sick leave pool and may do so in increments of less than eight (8) hours. HRS shall credit the pool with the sick leave contributed by an employee and shall deduct a corresponding amount from that employee's accrued sick leave.

16.2.2 Employees may not designate a specific person to receive their contribution.

16.2.3 Although contributions are voluntary, employees who leave State employment are encouraged to contribute to the pool, unless there is a possibility that they will be re-employed by the State within twelve months and thereby eligible to have their sick leave balance restored.

16.3 Withdrawal of Time from the Pool

An eligible employee may apply to HRS for an allocation of time from the Sick Leave Pool for use arising from catastrophic illness or injury or for the illness or injury of a member of their immediate family, as defined by State law.

16.3.1 Applications to use pool leave will be processed on a first-come, first-served basis.

16.3.2 All requests to use leave from the pool shall be accompanied by a physician's statement specifying the nature of the illness or injury and the approximate duration of the absence.

16.3.3 The employee may use sick leave assigned from the pool in the same manner as sick leave earned and accrued by the employee pursuant to State law and shall be treated for all purposes in the same manner as if the employee were absent on earned sick leave.

16.3.4 Approval or disapproval of an application must occur within 10 working days of the date on the application by HRS. If approved, HRS will determine the exact amount of time that an eligible employee may draw from the pool, and that decision is final.

16.3.5 An employee is also eligible to receive sick leave from the pool if HRS finds that the employee has exhausted all accrued sick leave because of a previous donation of sick leave to the pool. In such cases, the donor employee is not required to exhaust vacation time before requesting withdrawal of sick leave from the pool.

16.3.6 When an employee using sick leave pool hours returns to duty, any unused hours revert to the pool.

16.4 Estate Entitlement

The estate of a deceased employee is not entitled to payment for unused sick leave acquired by that employee from the sick leave pool, and any such unused sick leave will revert to the sick leave pool.

17.1 Employee Rights Under the "Family and Medical Leave Act of 1993" (FMLA)

FMLA requires the University to provide up to 12 weeks of unpaid, job-protected leave to all eligible employees for certain family and medical reasons. Employees are eligible if they have worked at least 1,250 hours at the University during the 12-month period preceding the requested leave.

17.2 Reasons for Taking Leave

Unpaid leave will be granted for any of the following reasons:

- a) to care for the employee's child after birth, or placement for adoption or foster care;
- b) to care for the employee's spouse, son or daughter, or parent, who has a serious health condition;
- c) a serious health condition that makes the employee unable to perform the employee's job;

- d) to a “qualifying exigency” arising out of active military duty or a notice of impending call or an order to active duty of an employee’s spouse, parent, or child;
- e) to an employee who is the spouse, parent, child, or next of kin of an injured servicemember who is recovering from a serious illness or injury; an eligible employee may qualify for up to 26 weeks in a 12-month period to care for the servicemember.

It is the University’s requirement that employee’s available paid leave be substituted for unpaid leave.

17.3 Advance Notice and Medical Certification

The employee is required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

17.3.1 The employee ordinarily must provide 30 days advance notice when the leave is foreseeable.

17.3.2 The University may require medical certification to support a request for leave because of a serious health condition and may require second or third opinions University expense and a fitness for duty report to return to work.

17.4 Job Benefits and Protection

17.4.1 For the duration of FMLA leave, the University will maintain the employee’s health coverage under the group health plan.

17.4.2 Upon return from FMLA leave, the employee will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

17.4.3 The use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an employee’s leave.

17.5 Unlawful Acts by Employers

FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided under FMLA, or discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

17.6 Enforcement

If an employee’s rights have been violated under FMLA, he or she should first consult the Office of Human Resource Services. If the matter is not resolved satisfactorily, the employee may contact the U.S. Department of Labor, which is authorized to investigate and resolve complaints of violations under the Act. An eligible employee may also bring a civil action against an employer for violations.

17.6.1 FMLA does not affect any Federal or State law prohibiting discrimination or supersede any State law which provides greater family or medical leave rights.

17.6.2 For additional information contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor or consult the Department of Labor website at: <http://www.dol.gov/>.

Chapter 18: Leave of Absence Without Pay

With the interest of the University being given first consideration and for good cause, leaves of absence without pay may be granted for a period within the term of appointment of a member of the faculty or staff, subject to Regent's Rules and Regulations and the general conditions provided below.

18.1 Approval Requirements

Requests for leaves of absence for a first year or portion thereof or a second consecutive year's leave may be granted by the President. Leaves of absence for a third consecutive year will be granted following review and approval by the President and the Executive Vice Chancellor for Academic Affairs of the U.T. System. Requests shall be transmitted up the supervisory chain for administrative review and approval or disapproval.

18.2 Maximum Period for Leave of Absence

The maximum period for which a leave of absence will be granted is the end of the fiscal year in which the leave begins. In unusual circumstances such as military service, reasons of health, continued graduate study, and public service or other activity that reflects credit on the institution and enhances an individual's ability to make subsequent contributions to the institution, a second consecutive year of leave may be granted. Third year leaves of absence will be rarely granted and then only for exceptional circumstances.

18.3 Availability of Additional Leave

After a return to duty of one year, the leave of absence privilege will again be available, subject to the conditions above.

18.4 Exhaustion of Accumulated Paid Leave

Unless otherwise provided by or authorized pursuant to law, all accumulated paid vacation or compensatory leave entitlement must be exhausted before a leave of absence without pay may be granted, with the additional provision that sick leave must be exhausted in those cases where the employee is eligible to take sick leave.

18.5 Special Leaves Without Pay

18.5.1 Chapter 17 provides for leave without pay for up to 90 days for family and medical purposes. Upon expiration of the family and medical leave entitlement, an employee may be eligible for an additional leave of absence in accordance with the provisions of 18.2 above.

18.5.2 For paid leave of absence associated with military service, see Chapter 20 of this Section of the Handbook. Additional unpaid leave of absence for Military duty may be provided pursuant to 18.2 above.

18.5.3 With the interest of the University being given first consideration, a leave of absence without pay pursuant to 18.2 above may, but need not, be granted to a member of the faculty or staff to participate in political activities. However, a leave of absence without pay shall not be granted to for the purpose of being a candidate for an elective public office, holding an elective public office, or directing the political campaign of a candidate for an elective public office.

18.5.4 Chapter 15.3.3 in this Handbook provides for leave without pay arising from on-the-job injury when sick leave is not used to satisfy the required waiting period for Workman's Compensation Insurance.

Chapter 19: Holidays

Certain designated days off with pay from work are provided for eligible University employees.

19.1 Eligibility

All staff and faculty employees, including part-time employees appointed half-time or more for a period of four and one half months, are entitled to time off with pay for days designated as official state holidays by the State Legislature or the Governor. Eligible part-time employees are entitled to holiday time off with proportionate to the percent time of their appointment.

19.2 Designated Holidays

Official State holidays are as authorized by the State Legislature in the General Appropriations Act with the provision that educational institutions may adjust the actual day of observance of each holiday to permit efficient operation of the institution. However, certain designated holidays require that the University remain open with sufficient personnel present for the conduct of public administrative business. The specific holiday schedule to be observed each fiscal year by the University is published annually by the Office of the Vice President for Business Affairs. The University further announces which offices must maintain a skeleton workforce to provide for the conduct of public business on those holidays so designated by the Legislature.

19.3 Compensatory Time

Employees comprising the skeleton work force on designated holidays or who are otherwise required to work during a holiday will be granted equivalent compensatory time off during the twelve-month (12) period following the date of the holiday worked. The supervisor in charge may require the employee to give reasonable notice in advance of taking compensatory time off, but may not require that the employee specify the season for which the compensatory time is to be taken.

19.4 Observance of Religious Holidays

An employee who wishes to observe a religious holiday, or any specifically designated State holiday not observed by the University, may do so in lieu of any observed holiday or holidays for

which the employee serves as a member of the skeleton work force or by taking vacation leave time.

19.5 Holidays on Weekends or Scheduled Time Off

State Holidays falling on weekends are not observed and are lost, but if a scheduled holiday with pay falls on a regularly assigned day off of an employee other than a weekend, compensatory time will be granted to the employee during the twelve (12) month period following the date of the holiday.

Chapter 20: Military Leave

20.1 Training for National Guard or Reserves

A paid leave of absence not to exceed 15 working days in any one year will be granted any employee who, as members of the National Guard or Official Militia of Texas or members of any of the Reserve Unit of the United States Armed Forces, shall be engaged in authorized training or duty, ordered or authorized by proper authority. During such periods, the employee is absent without loss of salary, accrued vacation, sick leave time, seniority, or benefits, and when relieved from military duty, the employee is restored to the position and status he or she previously held.

20.2 Emergency/Active Duty in National Guard

A paid leave of absence shall be provided any employee who is called to active duty with the National Guard by the Governor of Texas for the period ordered or authorized by proper authority. An employee called to active National Guard duty by the Governor shall provide a copy of his or her official orders to the Office of Human Resource Services in order to arrange for the leave of absence. During such periods, the employee is absent without loss of salary, accrued vacation, sick leave time, seniority, or benefits, and when relieved from military duty, the employee is restored to the position and status he or she previously held.

20.3 Extended or Discretionary Service

Unpaid leaves of absence for discretionary military service or extended duty may be provided pursuant to Chapter 18 of this Section of the Handbook.

Chapter 21: Jury Duty and Subpoenas for Court Appearance

21.1 Jury Duty

A University employee officially called for jury duty shall be excused on the days actually served upon presentation of evidence of the call and any subsequent service to their supervisor, Director, or Department Chair. Neither normal salary nor accrued leave time will be affected, and the employee is entitled to retain any routine jury payment received for service. Administrative and Professional staff and faculty members are expected to perform their normal duties, if reasonably possible, when not actually in court or performing duties related to the jury service, and faculty shall make arrangements for the teaching of any classes to be missed with the Department Chair.

21.2 Subpoena for Appearance

21.2.1 A University employee who is compelled by subpoena to appear in his or her official University capacity as a witness in a judicial proceeding must immediately notify their supervisor, Director, or Department Chair upon receipt of the subpoena, and a copy shall be forwarded to the Vice President for Business Affairs for legal review, if appropriate. If it is determined that the subpoena is valid and the employee is required to appear in court, the appearance shall be considered as the conduct of regular and assigned duties and shall not affect normal salary or leave time. In such cases, the employee may not accept a witness fee for the appearance.

21.2.2 If the subpoenaed appearance as a witness is not in an official University capacity and the employee is not a party to the judicial proceedings or acting in a paid consultative capacity for a party to the litigation, the employee must notify their supervisor, Director, or Department Chair of the required court appearance. The resulting absence from University duties for the time actually required for the court appearance shall not affect normal salary or leave time, and the employee may accept a witness fee for the appearance.

21.2.3 Employees appearing as a witness or otherwise participating in judicial proceedings to which they are a party in their private capacity or are professionally engaged as a consultant by a party to the litigation must do so on their own time and take vacation leave time if eligible or request an unpaid leave of absence from the University. Remunerated participation is further subject to compliance with the University's regulation of outside employment by employees pursuant to Chapter 4 of this Section of the Handbook.

Chapter 22: Paid Leave Accountability

It is the policy of The University to ensure that all employee paid leave benefits are verified and accounted for according to University fiscal policy. It is the employees' responsibility to ensure that their paid leave benefit accrual amounts are correct and that any usage of leave is reported to and accounted for their respective department.

22.1 Approval Required

All employees must request approval from their respective supervisors or department heads of their intent to use paid vacation or compensatory leave prior to its use. In the case of illness or bereavement leave, an employee must notify the department administrator or supervisor as soon as possible. Jury duty and military leave do not require advance supervisory approval, but timely advance notification of the supervisor or department administrator is expected

22.1.1 In the event an employee has been absent without approval for three (3) or more consecutive workdays, the supervisor or department administrator must notify the Office of Human Resources Services (HRS) before initiation of possible disciplinary action.

22.2 Requesting Paid Leave

Employees must complete the required University *Leave Request Form* and indicate the leave dates, type (vacation, sick, military, and bereavement leave, jury duty, etc.), and number of hours taken for the leave event. The employee is required to sign and date the "Leave Request Form" and submit it to their immediate supervisor for consideration.

22.2.1 The supervisor or department administrator shall determine eligibility and/or whether the employee has sufficient paid leave to compensate the employee for the leave requested. Employees may not take paid leave in excess of their leave time balance. In those instances where sufficient leave time is not available, the employee may apply for "leave without pay."

In the event a leave request is denied, the employee may pursue remedial action through the University's Grievance procedure.

22.2.2 If the paid leave request is approved by the appropriate supervisor, the form is submitted to the department administrative designee to update the leave usage hours in the University's electronic time and leave accounting system. The department's administrative designee will accumulate leave usage hours and update the University's leave accounting system on a monthly basis. This designee will also be responsible for reconciling the leave balances available in the University's leave accounting system.

22.2.3 The department's administrative designee will produce monthly reports of each departmental employee's leave balance. Individual reports will be provided to each departmental employee and the Department Chair or Director for verification and validation.

22.2.4 It is the employee's responsibility to review the report for accuracy and report promptly any possible errors or discrepancies to the department's administrative designee or to the Office of Human Resource Services, if satisfactory resolution is not obtained at the Department level. Any changes made to the Leave Report must be properly documented.

22.2.5 The department administrator must verify and validate the department's Leave Reports as well as any subsequent corrections, and submit approval electronically via the University's leave accounting system on a monthly basis.

22.2.6 Finalized and completed paid leave records and supporting documents (i.e. time sheets, leave requests, etc.) will be kept on file with the respective department's administrative designee in accordance with the institutional records retention policy

22.3 Fraud

Employees who fraudulently report, record, or authorize paid leave will be subject to disciplinary action under the University's Discipline and Discharge Policy up to and including termination and possible criminal prosecution.

Chapter 23: Employer-Provided Vehicles Including Courtesy Donor Cars

In certain cases, the University may assign University-owned or leased vehicles to employees for the conduct of University business, or may facilitate the provision of "donor" vehicles for the personal use of employees as a form of additional supplemental compensation. Such provision may incur taxable liability on the part of the employee for non-business usage of the vehicle, and the University is required by law to evaluate and report annually to the U.S. Internal Revenue Service the benefit derived from personal use of a University-owned or leased vehicle or "donor" vehicle.

23.1 Assigned University-Owned or Leased Vehicles

An employee who is assigned use of a University vehicle may use the vehicle only for the conduct of University business, including officially approved travel, and, when specifically required for the performance of the employee's assigned duties and/or for the convenience of the University, for the commute to and from the place of assigned work and the employee's domicile.

23.1.1 The employee is responsible for appropriate use and the proper and prudent care of any assigned University vehicle.

23.2 "Donor" or Courtesy Vehicles

Upon prior approval of the President, an employee may be assigned use of a Courtesy vehicle owned by a third party, the usage of which is donated to the University for provision of extra benefit for the employee. Although intended primarily for the conduct of University business, the vehicle may be used for incidental personal use by the employee, provided such usage is recorded and reported.

23.2.1 The employee assigned a Courtesy vehicle is responsible for the proper and prudent care and maintenance of the vehicle, including the provision of all required maintenance, appropriate insurance, and operating costs unless other arrangements are specifically provided by written agreement between the employee and the University or owner of the vehicle.

23.2.2 The employee assigned a Courtesy vehicle is responsible for providing to the University a monthly Vehicle Use Report, required for the proper assessment and reporting of the value of personal use for income tax purposes.

Chapter 24: Educational Opportunities for Employees

The University encourages all employees to take full advantage of the educational opportunities available through programs and activities of the institution to not only improve job skills and performance but to enhance the educational achievement and intellectual well-being of the individual. In addition to on-the-job training programs or skill enhancement programs offered through the Office of Human Resource Services, the University encourages the personal pursuit of undergraduate and graduate degrees by employees through enrollment after work hours. Financial assistance is available to full-time employees through the Education Assistance and Staff Scholarship Programs in the Office of Human Resource Services. Further, where possible, departmental accommodations are encouraged through the discretionary assignment of flexible work hours to permit class attendance if there is no impact on the conduct of official business or work performance of the employee.

24.1 In addition, upon approval of the appropriate Director, Chair, or Administrative Officer of a department, a full-time University employee may register for a maximum of one (1) three (3) semester-hour course that meets during normal University working hours for a Fall or Spring session.

24.2 An employee must complete the "Application to Enroll for University Course Credit During Work Time" form and submit the request to his/her administrative supervisor for review and decision regarding the request for permission to attend a class during work hours. A copy of this request must be sent to the Human Resources Services office for inclusion in the employee's personnel file. Administrative approval of an employee's request for the enrollment in a class during work hours is discretionary and shall give first consideration to the needs of the department. While approved class attendance during work hours does not affect normal salary or leave time, actual in-class hours during a work week will not be considered in the computation of overtime eligibility for that work period.

Chapter 25: Staff Organizations

25.1 Staff Council

The President has established a Staff Council, an elected group of University staff members empowered to make recommendations to the President of the University relative to interests, concerns, and issues that affect the staff employees of the University. The Council may advise on specific institutional issues and otherwise act at the request of the President. Recommendations may be made on general grievance policies, but the Council will not act on individual grievance issues. With the assistance of the Office of Human Resource Services, the Council will establish and maintain by-laws to govern membership and conduct of the Council.

For additional information regarding the U.T El Paso Staff Council, consult the following website: <http://www.utep.edu/scouncil/>

25.2 U.T. System Employee Council

The University of Texas System Board of Regents and the Chancellor have established a staff Employee Advisory Council representing component institutions to facilitate the flow of ideas and information between and among the Board of Regents, the System Administration, and the component institutions. Representatives of the Employee Advisory Council may from time to time address the Board through the Chancellor. At least once each year, a meeting will be arranged between the U.T. System Employee Advisory Council and the Board of Regents. The Office of Human Resource Services shall coordinate University representation on the Employee Advisory Council. For additional information regarding the U. T. System Employee Advisory Council, please consult the following website: <http://www.utsystem.edu/eac/>

25.3 Faculty or Staff Organizations

In accordance with Regent's Rules and Regulations, only faculty or staff organizations registered annually with the Office of Vice President for Business Affairs may reserve and use buildings, grounds, and facilities owned or controlled by the University in compliance with reasonable and nondiscriminatory regulation of time, place, and manner by the University.

25.3.1 Procedures for Registration

The period of registered status of an organization shall not exceed one academic year, and such status shall automatically terminate at the end of each academic year. However, however, an organization previously registered as a faculty or staff organization may apply for and be granted registration for subsequent periods of one academic year if it meets all applicable criteria in effect for the period for which registration is sought.

25.3.2 Suspension or Revocation of Registered Status

A registered faculty or staff organization shall be subject to all applicable rules and regulations of the University and the University of Texas System. Action taken by or on behalf of a registered faculty or staff organization that results in a violation of such rules and regulations is subject to disciplinary action that may result in the suspension or revocation of the registered status of the organization.

25.3.3 Membership Not Restricted

No organization may become registered or remain registered at a component institution as a faculty or staff organization unless the membership of the organization is restricted to the faculty or staff of the University.

a. At the time of application for registration and at the beginning of each semester that an organization is registered as a faculty or staff organization, each such organization shall file with the Office of the Vice President for Business Affairs a statement that the organization does not presently have, nor during any period of registration will it have, as a member any person who is not a member of the faculty or staff of the University.

b. If the Vice President for Business Affairs determines that the statements required above are false, registration shall be denied, or if it is determined that such statements have become false during any period of registration, such registration shall be cancelled.

25.3.4 Application for Registration

Each application for registration as a faculty or staff organization shall be accompanied by a complete list of the names and addresses of all persons who are officers of the organization and the application shall identify by name and address the person or persons who are authorized to speak for or represent the organization in its relations with the University and who are authorized to receive for the organization any official notices, directives, or instructions from the University. This required information shall be kept current during any period of registration. If at any time during a period of registration it is determined by the Vice President for Business Affairs that such information is not current and the organization does not make such information current within 10 days after being notified of such deficiency, registration shall be cancelled.

25.3.5 Prohibition on Use of University Name and Seal

A registered faculty or staff organization may state that its membership is composed of the faculty or staff of the University but it shall not suggest or imply that it is acting with the authority or as an agency of the University. A faculty or staff organization shall not use the name of the University or the name of The University of Texas System as a part of the name of the organization, and it shall neither display the seal of either the University or The University of Texas System in connection with any activity of the organization, nor use such seal or seals as part of any letterhead, sign, banner, pamphlet, or other printed material that bears the name of the organization.

25.3.6 Use of Facilities

A registered faculty or staff organization may reserve and use University facilities as permitted by Regents [Rule's and Regulations](#) and in compliance with University facility use regulations. A registered faculty or staff organization may not reserve or use property, buildings, or facilities owned or controlled by the U. T. System or a component institution for the purpose of engaging in any project or program with any association, organization, or corporation, or with any individual or group of individuals that are not registered.

25.3.7 Violation of Rules

Faculty and staff organizations shall be subject to all applicable rules and regulations the University and the University of Texas System. An organization is subject to disciplinary action or cancellation of registration for violation of such rules and regulations.

Chapter 26: Employee Discount Program

26.1 Policy and Purpose

It is the policy of The University of Texas at El Paso (UTEP) to permit certain designated providers to offer their products and services to staff, faculty and retirees at a reasonable discount rate under the provisions of an Employee Discount Program (EDP). The EDP will enhance recruitment and retention of employees and will serve as a benefit to staff, faculty and retirees of the university.

26.2 Scope

This policy applies to all Classified and Administrative and Professional employees, Faculty members and Retirees. It does not apply to those positions that require student status as a condition of employment.

26.3 Definitions

26.3.1 Provider: A business entity that is in compliance with the Regents *Rules and Regulations*, all applicable UTEP polices, all state laws, and all licensing and certification requirements applicable to the provisions of a particular service or product.

26.3.2 Discount Rate: A reasonable rate established by the provider that is significant enough to be of added value or actual discount to all employees (10% minimum is suggested).

26.3.3 Identification: A valid official UTEP identification card, earning statement or UTEP email address when ordering products from the internet.

26.4 EDP Procedures

26.4.1 The EDP will be administered by the Office of Human Resource Services and may be accessed via the Internet within the UTEP website.

26.4.2 UTEP will make available Participant Enrollment Forms via the Internet (www.utep.edu/hrssourc/.) for those eligible business entities that may wish to be designated providers in the EDP.

26.4.3 Interested providers must complete and submit the Participant Enrollment Form describing their products or services, the proposed discount rate and other details as appropriate. Providers must also supply a link to their website so that interested staff, faculty and retirees can view their product or service electronically and compare discount costs.

26.4.4 The EDP Coordinator will review the completed document and either approve or deny the provider's request to participate. All decisions of the EDP Coordinator are final.

26.4.5 If the provider's request for participation is denied, the provider will receive appropriate notification from the EDP Coordinator.

26.4.6 Once approved for participation, the provider's information will be displayed on UTEP's website.

26.5 Employee Participation

26.5.1 UTEP assumes no responsibility for any arrangements, contracts, purchases or disputes between the staff, faculty member or retiree and provider.

26.5.2 Staff, faculty, and retirees are encouraged to compare prices, services and products before purchasing and/or signing any purchasing agreement with a provider.

26.5.3 Staff, faculty, and retirees must discuss directly with the provider any questions or concerns that they have with the provider's products or services.

26.5.4 Products and services offered to staff, faculty and retirees through the EDP do not constitute compensation to the individual.

26.6 Provider Eligibility and Responsibilities

26.6.1 A provider must have a physical location with a valid mailing address and telephone number.

26.6.2 A provider shall keep their websites current regarding prices, products, services and availability.

26.6.3 A provider shall immediately notify the EDP Coordinator, in writing, regarding any discounted items that have been discontinued or recalled.

26.6.4 A provider must to participate in the EDP for one at least one calendar year.

26.6.5 A provider shall complete a new Participation Enrollment Form each year to continue in the EDP.

26.6.6 A provider must make products and services offered through the EDP available on the same basis to all eligible staff, faculty and retirees of UTEP.

26.6.7 A providers shall require all staff, faculty and retirees to present valid UTEP Identification when purchasing a product or service from provider.

26.6.8 A provider shall not solicit business from any UTEP employee on campus or contact an employee during the employee's workday.

26.6.9 A provider must make all contacts with the UTEP, verbal and/or written, with the EDP Coordinator.

26.6.10 A provider may not disclaim knowledge of or responsibility for the authenticity or legality of the product or service.

26.6.11 A provider shall not use U.T. System or UTEP marks, logos, seals, or otherwise imply that participation in the program constitutes an endorsement of the products or services by U.T. System or UTEP.

26.6.12 A provider may not display or offer discounted products or services owned or controlled by officers and employees of U.T. System or UTEP under the EDP.

26.6.13 A provider's participation in the EDP must be separate and distinct from the provision of any services through a vendor contract with U.T. System or UTEP for the provision of discounts of goods or services to UTEP employees.

26.7 Cancellation of EDP Products or Services

26.7.1 UTEP may discontinue the EDP at anytime or terminate a provider's participation in the program without advance notice.

26.7.2 UTEP may remove a provider from the EDP based on complaints from staff, faculty or retirees or for any reason deemed to be in the best interest of UTEP and its employees.

26.8 Miscellaneous.

26.8.1 UTEP has the final decision with regard to the acceptance of a provider for participation in the EDP; there is no informal or formal appeal of this decision.

26.8.2 The EDP does not create a contract or agent relationship between the provider and U.T. System or UTEP. Participation in the EDP does not create any legal duty or liability on the part of U.T. System or UTEP for any action of the provider.

26.8.3 UTEP does not endorse any products or services offered by providers through the EDP.

26.8.4 The inclusion of a service or a product in the EDP is not a guarantee of the quality or performance.

Chapter 27: Conflicts of Interest Policy

27.1 Policy and Purpose.

It is the policy of The University of Texas at El Paso to value and be committed to maintaining high standards of excellence, integrity, and accountability in our conduct. This conflicts of interest policy is intended to enhance the ability of the employees of The University of Texas at El Paso to act ethically in accordance with those values and with the law, and to fulfill our obligation to be good stewards of the resources that have been entrusted to us.

The purpose of this policy is to provide a summary of conflict of interest laws, rules, and policies, all of which are intended to preserve the public trust in our integrity by preventing bias or the appearance of bias in our decision-making.

This policy is adopted pursuant to Section 572.051, Government Code.

27.2 Applicability.

This conflicts of interest policy applies to all employees of The University of Texas at El Paso.

27.3 Definitions.

27.3.1 Conflict of Interest.

A conflict of interest exists when you owe a professional obligation to The University of Texas at El Paso that is or might be compromised by the pursuit of outside interests. Outside interests, such as professional activities, personal financial interests, or the acceptance of gifts from third parties, can create conflicts between the interests of The University of Texas at El Paso and your private interests and may prevent you from making decisions that are in the best interest of The University of Texas at El Paso. Even if those outside interests do not actually impair your ability to act in the best interest of The University of Texas at El Paso, it may appear to the public that your independence of judgment has been affected.

27.3.2 Gift.

A gift is *anything of value*, including tickets to entertainment or sporting events, expenses for a trip, and food.

27.4 Applicable Legal Standards, Rules and Policies.

27.4.1 Gifts.

There are two standards under Texas law governing gifts: a general standard of conduct that applies to all employees, and a criminal standard that applies only to those persons who make recommendations or decisions about contracts and other financial transactions.

- (a) General Standard. Under the general standard, you should not accept or solicit any gift, favor, or service that might reasonably tend to influence you in the discharge of official duties or that you know or should know is being offered with the intent to influence official conduct. This standard applies even though the donor is not asking you to do something in exchange for the gift. Acceptance or solicitation of a gift in violation of this standard is not a criminal offense, but is grounds for discipline, including termination.
- (b) Criminal Standard. Criminal penalties may apply to persons who make recommendations or decisions about The University of Texas at El Paso financial transactions. If those are your job duties, you may not accept a gift from an individual or entity that is interested in or likely to become interested in that transaction, with limited exceptions. Under those exceptions, it is not a criminal offense to accept the following type of gift if the gift is not given in exchange for your official action (it is *never* lawful to accept a gift in exchange for official action): 1) non-cash items worth less than \$50; 2) a gift from a person such as a relative, friend, or business associate with whom you have a relationship independent of your official status, if the gift is given on account of that relationship rather than your official status; and 3) food, lodging, transportation, or entertainment in any amount if you accept them as a “guest,” which means the donor must be present.¹

Even though you may accept a gift described above without committing a crime, acceptance of the gift may still violate the general standard of conduct and constitute grounds for discipline.

Even though the acceptance of a gift may not constitute a crime, it may appear to the public that a gift has influenced you in performing your job. You should not accept any gift that could appear to influence your official conduct, even if the gift is technically legal.

- (c) Additional Restrictions if the Gift is from a Student Loan Lender. Additional restrictions apply if the gift is from a student loan lender. The definition of “student loan lender” is very broad and covers entities that may not traditionally be thought of as student loan lenders. You should consult the Office of Legal Affairs to determine if the proposed gift from the student loan lender is permissible under the Texas Higher Education Fair Lending Practices Agreement.

Summary: Do not accept any gift that could appear to influence your official conduct.

27.4.2 Outside Employment or Compensation.

You should not accept other employment or compensation that could reasonably be expected to impair your independence of judgment in performing your official duties. Your primary responsibility is the accomplishment of the duties and responsibilities assigned to your position at The University of Texas at El Paso. External consulting or outside employment that interferes with those duties and responsibilities should not be accepted. Outside employment, including self-employment or employment by another state agency, must first be approved by your department head in accordance with Section V. Chapter 4.1 (All Employees) and Section III. Chapter 4.10 (Faculty) of this Handbook of Operating Procedures. You must request approval by submitting a Request for Prior Approval of Outside Board Service and Outside Employment Form that describes the nature and extent of the outside employment. The contemplated employment will be evaluated to determine if a conflict of interest or the appearance of a conflict of interest exists between your outside commitments and your responsibilities to The University of Texas at El Paso.

You should not accept other employment or engage in a business or professional activity that you might reasonably expect would require or induce you to disclose confidential information acquired through your official position.

Summary: Do not accept outside employment that interferes with your responsibilities to The University of Texas at El Paso. Any outside employment must first be approved by the appropriate administrative officials in accordance with Section V. Chapter 4.1 (All Employees) and Section III. Chapter 4.10 (Faculty) of this Handbook of Operating Procedures.

27.4.3 Outside Board Service.

Outside board service is generally deemed to be in the best interest of UT System because it broadens the experience of the individuals involved and exposes UT System to a larger audience of business, civic, professional, and social leaders. However, recognizing that your primary duty is the performance of your job at The University of Texas at El Paso, the position may not create a conflict of interest and may not impose an unreasonable time requirement. Before accepting a position on an outside board, the outside board service must be evaluated to determine whether any potential conflict of interest exists. You must then submit a Request for Prior Approval of Outside Board Service and Outside Employment Form for approval by the appropriate administrative officials in accordance with Section V. Chapter 4. Title 4.3 of this Handbook of Operating Procedures. The President is subject to certain additional provisions, including the requirement to file a report on outside board service with the Vice Chancellor for Administration in September of each year.

¹ The law provides additional prohibitions if the donor is a lobbyist registered with the Texas Ethics Commission. It is advisable to consult the Office of General Counsel before accepting a gift from a lobbyist.

Summary: Do not accept a position on an outside board that creates a conflict of interest or that imposes an unreasonable time commitment. Any outside board service must first be approved by the appropriate administrative officials in accordance with Section V. Chapter 4. Title 4.3 of this Handbook of Operating Procedures.

27.4.4 Honoraria.

You may not accept an honorarium for services you would not have been asked to provide but for your official status. For example, you may not accept a gift or payment for giving a speech if you would not have been asked to provide the speech but for your official position. However, you may accept meals, transportation, and lodging in connection with your services as long as the services are more than merely perfunctory or superficial. Also, you may accept a gift of very minimal value, such as a plaque or coffee cup.

Summary: Do not accept an honorarium for services you would not have been asked to provide but for your official position.

27.4.5 Personal Investments.

You should not make personal investments that could reasonably be expected to create a substantial conflict between your private interest and the public interest. This means that you should not have a direct or indirect financial interest in a business that conflicts with The University of Texas at El Paso interests or that might influence how you do your job. Some financial interests may be so indirect or so minimal that they do not create conflicts of interest, such as ownership of a minimal amount of stock in a company or an investment in a publicly traded mutual fund in which you do not exercise discretion regarding the investment of the assets of the fund. If you are not sure whether a particular investment creates a conflict of interest, you should ask your supervisor or consult with the Office of Legal Affairs.

If you do have an interest in a business that you think might constitute a conflict of interest, disclose that interest to your supervisor. In some cases, you may be able to cure the conflict by not participating in any decision concerning that business. However, if the conflict is significant, you may be required to divest yourself of the interest that causes the conflict.

Summary: Do not make personal investments that create a substantial conflict between your private interest and the public interest.

27.4.6 Self-dealing/Transactions with Employees.

You may not transact any business in an official capacity with any business entity of which you are an officer, agent, or member, or in which you own a substantial interest.

Additionally, before The University of Texas at El Paso may purchase any supplies, materials, services, equipment, or property from you, the President must approve the purchase, and the purchase may be made only if the cost is less than from any other known source.

Summary: Do not transact public business with your private business. The President must approve any purchases from you, and the purchase may be made only if the cost is less than from any other known source.

27.4.7 Benefits for Performing Official Duties.

You should not intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised your official powers or for having performed your official duties in favor of another. If the benefit was given in exchange for an official act, it could constitute the criminal offense of bribery.

Summary: Do not accept a benefit for having done your job in favor of another.

27.5 Required Disclosures.

You must file timely written disclosure statements as required by law, rule, or policy. Your position with The University of Texas at El Paso and your contemplated activity will determine which disclosure statements are required.

Summary: Be aware of any disclosure statements you are required to file and be sure to file them timely.

27.6 Consequences for Violations.

There are consequences for failing to comply with conflicts of interest laws, rules, or policies. The law provides that appropriated money may not be used to compensate an employee who violates the standards of conduct. Failure to comply is grounds for disciplinary action by The University of Texas at El Paso, including termination of employment. Additionally, civil and criminal penalties may apply under certain circumstances.

Summary: You may be subject to disciplinary action or civil or criminal penalties for violating a conflict of interest law, rule, or policy.

27.7 Application of Other Conflicts of Interest Policies, Contract Provisions, Agreements, Law or Rules.

27.7.1 This policy does not rescind any policy provided by UT System or The University of Texas at El Paso, any departmental policy, any contract provision, any agreement with the Texas Attorney General, or any law or rule that is more specific or more restrictive concerning conflicts of interest. You are required to comply with the more specific or restrictive policy, contract provision, agreement, law, or rule.

27.7.2 This policy addresses only conflicts of interest. Other ethical issues may arise, such as issues related to the use of government resources, sexual harassment, political activities, legislative lobbying, and the use of confidential information. Those issues are fully discussed in The University of Texas at El Paso Standards of Conduct Guide. Additional information may be found on the website of the UT System Office of General Counsel at www.utsystem.edu/ogc/ethics.

27.8 Questions or Reports of Violations.

If you have questions about an actual or potential conflict of interest, you may ask your supervisor. Additionally, you may contact the Office of Legal Affairs with any conflict of interest questions.

You should report any suspected wrongdoing to your department head or to the Office of Institutional Compliance. You may also report suspected violations on a toll-free hotline at 1-888-228-7713. You may not be retaliated against for a good-faith report of suspected wrongdoing. Detailed information on reporting possible violations may be found in The University of Texas at El Paso Standards of Conduct Guide.