

**Policy 4104
Student Loan Activities**

**Date of Current Revision: January 2010
Primary Responsible Officer: Financial Aid Director**

1. PURPOSE

The Higher Education Opportunity Act (HEOA) that must be executed by all institutions participating in Title IV financial aid programs including student loan programs requires a code of conduct with which the institution's officers, employees, and agents shall comply. Such code must prohibit a conflict of interest with the responsibilities of an officer, employee, or agent of an institution with respect to such loans, and include the provisions set forth in the HEOA related to conflicts.

2. AUTHORITY

This policy is required by and complies with provisions from the HEOA, specifically Section 493 as its Code of Conduct Related to Student Loan Activities. James Madison University (JMU), as a participant in federal loan programs, is required to have a code of conduct applicable to the institution's officers, employees, and agents. While the university has existing policies that address conflicts of interest, the code of conduct established by this policy is specifically related to student loan activities and is an additional requirement specific to certain transactions and activities related to financial aid matters.

3. DEFINITIONS

Agent:

An officer or employee of a covered institution or institution-affiliated organization.

Conflict of Interest:

A conflict of interest occurs when a university employee or officer, or a member of his or her immediate family has a personal interest, or benefits or suffers from his or her participation in a contract or transaction considered by JMU.

Covered Institution:

Any institution of higher education, as that term is defined in section 102 of the HEA, which receives any Federal funding or assistance.

Employee:

Full-and part-time faculty; classified employees, administrative staff; and students who are paid for specific work by the university. Students may be employees for some purposes and not for others. If they are paid as student assistants, for example, or given grants to do specific research, they will be employees. Students receiving general scholarship or stipend funds would not normally be considered employees.

Gift:

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

Higher Education Opportunity Act:

Public Law 110-315 (HEOA) was enacted on August 14, 2008, and reauthorizes the Higher Education Act of 1965, as amended (the HEA). The HEOA makes a number of changes to programs authorized under the HEA, authorizes new programs, and makes changes to other laws.

Officer:

A director or trustee of a covered institution or institution-affiliated organization, if the director or trustee is treated as an employee of the institution or organization.

Institution-Affiliated Organization:

Any organization that is directly or indirectly related to a covered institution, and is engaged in the practice of recommending, promoting, or endorsing education loans for students attending such covered institution or the families of such students. Such an organization may include an alumni organization, athletic organization, foundation, or social, academic, or professional organization of a covered institution.

Lender:

An eligible lender in the FFEL Program, the Department for the purpose of the Direct Loan Program, and a private educational lender as defined in section 140 of the TILA for purposes of private educational loans.

Preferred Lender Arrangement:

An arrangement or agreement between a lender and a covered institution, or an institution-affiliated organization of such covered institution, (1) under which the lender provides or otherwise issues education loans to students attending such covered institution or the families of such students and (2) involves the covered institution or institution-affiliated organization recommending, promoting, or endorsing the lender's education loan products. Such an arrangement does not include an institution participating in the Direct Loan Program or arrangements or agreements under the PLUS auction pilot program (see Title IV-Student Assistance, Title IV Programs-General, Competitive Loan Auction Pilot Program for Federal FFEL Parent PLUS Parent Loans).

Private Education Loan:

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

Revenue Sharing Arrangement:

An arrangement between an institution and a lender under which –

- a lender provides or issues a loan that is made, insured, or guaranteed under this title to students attending the institution or to the families of such students; and
- the institution recommends the lender or the loan products of the lender and in exchange, the lender pays a fee or provides other material benefits, including revenue or profit sharing, to the institution, an officer or employee of the institution, or an agent.

Student Loan:

Any Federal Family Education Loan (FFEL), Direct Loan, or private education loan.

4. APPLICABILITY

James Madison University, as a participant in federal loan programs, is required to have a code of conduct applicable to the institution's officers, employees, and agents.

5. POLICY

5.1 Ban on Revenue Sharing Arrangements

The university will not enter into any revenue-sharing arrangement with any lender.

5.2 Gift Ban

No officer or employee of the institution who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or agent who has responsibilities with respect to education loans, shall solicit or accept any gift from a lender, guarantor, or servicer of education loans.

5.3 Contracting Arrangements Prohibited

An officer or employee who is employed in the financial aid office or who otherwise has responsibilities with respect to education loans, or an agent who has responsibilities with respect to education loans, shall not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit (including the opportunity to purchase stock) as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender relating to education loans.

6. PROCEDURES

Gifts for Family Members

A gift to a family member of an officer or employee of an institution, to a family member of an agent, or to any other individual based on that individual's relationship with the officer, employee, or agent, shall be considered a gift to the officer, employee, or agent if-

- the gift is given with the knowledge and acquiescence of the officer, employee, or agent; and
- the officer, employee, or agent has reason to believe the gift was given because of the official position of the officer, employee, or agent.

7. RESPONSIBILITIES

The Financial Aid Director is responsible for the management of this policy, including meeting all requirements of the HEOA related to publication of the code and annual disclosures and annual distribution of the Code of Conduct to all university officers, employees and agents with responsibilities related to student loan activities.

8. SANCTIONS

Sanctions will be commensurate with the severity and/or frequency of the offense and may include termination of employment or expulsion from the university.

Further and specifically, violations of university policies, including the failure to avoid a prohibited activity or disclose a conflict of interest in timely manner, will be dealt with in accordance with applicable university policies and procedures, which may include disciplinary actions up to and including termination from the university.

9. EXCLUSIONS

The term 'gift' shall not include any of the following:

- Standard material, activities, or programs on issues related to a loan, default aversion, default prevention, or financial literacy, such as a brochure, a workshop, or training.
- Food, refreshments, training, or informational material furnished to an officer or employee of an institution, or to an agent, as an integral part of a training session that is designed to improve the service of a lender, guarantor, or servicer of education loans to the institution, if such training contributes to the professional development of the officer, employee, or agent.
- Favorable terms, conditions, and borrower benefits on an education loan provided to a student employed by the institution if such terms, conditions, or benefits are comparable to those provided to all students of the institution.
- Entrance and exit counseling services provided to borrowers to meet the institution's responsibilities for entrance and exit counseling as required by subsections (b) and (l) of section 485, as long as-
 - the institution's staff are in control of the counseling, (whether in person or via electronic capabilities); and
 - such counseling does not promote the products or services of any specific lender.
- Philanthropic contributions to an institution from a lender, servicer, or guarantor of education loans that are unrelated to education loans or any contribution from any lender, guarantor, or servicer that is not made in exchange for any advantage related to education loans.
- State education grants, scholarships, or financial aid funds administered by or on behalf of a State.

Exclusions/exceptions regarding officers and employee. This policy does not prohibit:

- an officer or employee of an institution who is not employed in the institution's financial aid office and who does not otherwise have responsibilities with respect to education loans, or an agent who does not have responsibilities with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans;
- an officer or employee of the institution who is not employed in the institution's financial aid office but who has responsibility with respect to education loans as a result of a position held at the institution, or an agent who has responsibility with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans, if the institution has a written conflict of interest policy that clearly sets forth that officers, employees, or agents must recuse themselves from participating in any decision of the board regarding education loans at the institution; or
- an officer, employee, or contractor of a lender, guarantor, or servicer of education loans from serving on a board of directors, or serving as a trustee, of an institution, if the institution has a written conflict of interest policy that the board member or trustee must recuse themselves from any decision regarding education loans at the institution.

10. INTERPRETATION

Authority to interpret this policy rests with the president and is generally delegated to the financial aid director.

Previous version: None

Approved by the President: September 2009