MONTANA TEACHERS' RETIREMENT SYSTEM
POLICY 1-0100-001
ETHICAL CONDUCT / CONFLICT OF INTEREST

Section: Governance
Implementer: All TRS Personnel

Effective Date: September 26, 2014

Purpose

This policy prescribes the standards for ethical conduct which must be met by all TRS personnel to ensure the performance of duties on behalf of TRS and its members in conformity with the legal requirements, fiduciary duties, and best practice standards necessary, and developed in recognition of and commensurate with, the public trust and public duty reposed in TRS and its personnel.

As employees of the State of Montana, TRS personnel must comply with state law and policy providing for ethical standards of conduct. By this policy, TRS adopts the State Ethics Policy. As an addition to the ethical standards applicable to all State of Montana employees, heightened standards apply to TRS and TRS personnel by virtue of the TRS Board's fiduciary status and its obligation to conduct TRS's business to its fiduciary duties.

This policy is not intended to replace or supersede the State Ethics Policy, but to the extent this policy is more specific or more restrictive than the State Ethics Policy, it will enhance the State Ethics Policy.

Definitions

As used in this policy and related procedures and documents:

Advance a private interest – TRS personnel takes official action or performs any other act related to the administration, operations or assets of TRS, which has the primary or subsidiary effect of furthering a private interest of TRS personnel, a family member or a friend.

Beneficiary – a joint annuitant, beneficiary, or alternate payee of a member.

Business – includes a corporation, partnership, sole proprietorship, trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.

Compensation – any money or economic benefit conferred on or received by any person in return for services rendered or to be rendered by the person or another.

Employee – any individual person who is included in TRS personnel.

Family member – the person's spouse (spouse includes a domestic partner), the person's or spouse's ancestor, sibling, or descendent or the spouse, ancestor, sibling, or descendent of any of them.

Gift of substantial value – a gift with a value of $50 or more. The term does not include: food and beverages consumed on the occasion when participation in a charitable, civic, or community event bears a relationship to the public officer's or public employee's office or employment or when the officer or employee is in attendance in an official capacity; educational material directly related to official governmental duties; an award publicly presented in recognition of public service; or educational activity that does not place or appear to place the recipient under obligation, clearly serves the public good, and is not lavish or extravagant.

Member – an active, inactive, or retired member of TRS.

Official act or official action – a vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority related to the administration, operations, or assets of TRS.

Private interest – an interest held by an individual that is

1. an ownership interest in a business
2. a creditor interest in an insolvent business
3. an employment or prospective employment for which negotiations have begun
4. an ownership interest in real property
5. a loan or other debtor interest
6. a directorship or officership in a business
7. any other personal objective or advantage

It does not include the interest of TRS personnel in the regular and appropriate compensation received directly from TRS or a TRS employer as compensation for services as TRS personnel.

TRS Personnel –

1. Any TRS board member
2. any temporary or permanent employee of TRS
3. any person working under contract to TRS

Transaction or business arrangement – any process, deal or negotiation necessary to the conduct of the business of TRS that involves the collection, expenditure, management or other use of TRS assets. A transaction or business arrangement includes the day-to-day processes and functions related to administration and operation of the retirement system and plan benefits, including, but not limited to, hiring and employing staff, contracting for goods and services, making eligibility and benefit determinations, and paying benefits or any other amounts from the assets of TRS.

Policy

Board has established the following principles of ethical conduct, and has determined that engaging in any action or conduct contrary to or in violation of these principles of ethical conduct is inconsistent, incompatible, in conflict with, or inimical to the duties of TRS personnel.

A. Appropriate Conduct Of Duties

1. TRS personnel shall perform their duties as TRS personnel, at all times, in conformity with applicable law, policy, and the requirements and expectations

communicated to them in initial and on-going training, education, and supervision as TRS personnel. TRS personnel shall:

a. Recognize and be responsible for upholding and enforcing the fiduciary duties applicable to the conduct of TRS business.
b. Perform all duties on behalf of TRS in a fair and honest manner.
c. Strive to provide the highest quality in performance and advice.
d. Avoid any circumstances or conduct that would constitute a conflict of interest or give rise to an appearance of a conflict of interest.
e. Exercise prudence and integrity in the handling and management of TRS assets in their care.
f. Refrain from financial and business dealings that would tend to reflect adversely on the individual's impartiality or interfere with the proper performance of functions and duties.
g. Communicate promptly to the Executive Director, Chief Legal Counsel, or an appropriate board member or staff member information regarding actions or circumstances of which they become aware that may constitute a violation of this policy, a violation of law, or a conflict of interest.
h. use care and discretion in the handling of confidential information received or maintained by TRS.

2. TRS personnel shall not:

a. Use the prestige or influence of TRS or a TRS personnel position to advance a private interest of TRS personnel, a family member, or a friend.
b. Use retirement system time, facilities, employees, equipment or supplies to advance a private interest or for any other personal objective.
c. Use confidential information of TRS to advance a private interest.
d. Provide confidential information to persons to whom issuance of the information is not authorized.
e. Receive or accept compensation from a third party for performing duties he/she would be required or expected to render in the regular conduct of their duties on behalf of TRS
f. Seek, receive or accept, directly or indirectly, any gift from any person or entity who is doing or is seeking to do business of any kind with TRS or whose activities are regulated or controlled in any way by TRS or the TRS board.
g. Use their TRS position to influence the employment of a family member or friend with TRS or with any person or entity which does or seeks to do business with TRS.
h. Perform any act or conduct, other than in their TRS personnel capacity, that they know will or may be subject, directly or indirectly, to control, inspection, review, audit, or enforcement by TRS or the TRS board. This does not prohibit TRS personnel who are also TRS members from taking action necessary to exercise their rights as members of TRS.
i. Participate in an ex parte communication with other TRS personnel, any party to a contested case, a hearing examiner, a court, or any other person with whom ex parte communications are prohibited regarding the merits, facts, or law pertaining to the contested case.

j. Publish or make any statement to the media, state administrators, legislators or legislative staff, or members of the public that purports to represent TRS's position or policy on any matter or subject before the board has formally adopted a policy or position on the matter or subject. This section does not prohibit TRS personnel who are acting within the course and scope of their duties, responsibilities, and authority from publishing or making statements regarding well-settled matters pertaining to administration of the retirement system or plan benefits. This section also does not preclude TRS personnel from expressing their personal views as private citizens. In circumstances where the private views of a TRS employee or board member may be mistaken for TRS's position or policy, the TRS personnel shall make clear that he/she is expressing his/her personal views as a private citizen.

k. Allow family, social, or other personal relationships to influence their conduct or judgment in the performance of their TRS duties.

l. Falsify any document, record, request for reimbursement or fail to make or record proper entries or information on any books or records of TRS.

m. Knowingly agree to participate in, condone, or conceal any illegal activity or violation of TRS board policy.

B. Fiduciary Duties/Prohibited Transactions and Self-Dealing

1. Loyalty/Exclusive Benefit: TRS personnel shall perform their duties solely in the best interests of all TRS members and their beneficiaries and for the sole purpose of providing the benefits owed to all members and their beneficiaries in conformity with applicable law. The assets of the plan shall be held for the exclusive purpose of providing the benefits owed to TRS members and their beneficiaries, and for defraying the reasonable administrative expenses of the retirement system.

2. Prudence: TRS personnel shall discharge their duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of like character and with like aims. This requires:

   a. Undertaking an appropriate analysis of a proposed course of action, including determination of the relevant facts, considering alternative courses of action and obtaining expert advice as needed; and
   b. Acting in accordance with the documents and instruments governing the retirement system.

3. Prohibited Transactions: Except as otherwise provided by law, TRS personnel shall not cause the retirement system to engage in a transaction or business arrangement if they know or should know the transaction or business arrangement constitutes a direct or indirect:

   a. Sale or exchange or leasing of any property from the system to any person or entity for less than adequate consideration, or from any person or entity for more than adequate consideration;

b. Lending of money or other extension of credit from the retirement system to any person or entity without the receipt of adequate security and a reasonable rate of interest, or from any person or entity with the provision of excessive security or an unreasonably high rate of interest;
c. Furnishing of goods, services, or facilities from the retirement system to any person or entity for less than adequate consideration, or from any person or entity for more than adequate consideration;
d. Transfer to or use by or for the benefit of any person or entity of any assets of the retirement system for less than adequate consideration.
e. Acquisition, on behalf of the system, of any employer security, real property, or loan.

4. Prohibition Against Self-Dealing: TRS personnel shall not do any of the following:

   a. Deal with the assets of the retirement system for any purpose other than the legal and ethical conduct of the business of TRS, including for their own private gain or the private gain of a family member or friend.
   b. In any transaction or business arrangement, whether in their TRS personnel capacity, personal capacity, or any other capacity, act on behalf of a person or entity or represent a party whose interests are adverse to the interests of the retirement system or the interests of all TRS members and their beneficiaries.
   c. Receive any compensation or other consideration, in any form, from any person or entity with whom/which TRS has been or is involved in a transaction or business arrangement.

C. Conflicts of Interest

1. A conflict of interest exists when a TRS board member's or employee's objectivity or independence in the performance of his/her duties on behalf of TRS is impaired or may reasonably be viewed as being impaired because he/she has a private or other personal interest in a transaction or business arrangement of TRS or has a relationship with a person or entity who has a financial interest or a personal interest in a transaction or business arrangement of TRS. It is not necessary that TRS personnel actually act to advance a private interest for a conflict of interest to exist.

2. When a Conflict of Interest Arises: There is a conflict of interest if TRS personnel:

   a. Has a personal private interest in any entity, business, property, or any other thing of value, which is or may be the object of or involved in a transaction or business arrangement of TRS.
   b. Has a relationship with a person (family member or friend) who has or reasonably would be perceived as having a private interest related to a transaction or business arrangement of TRS.

3. TRS personnel may not:

a. Engage in substantial financial transactions for their private business purposes with a person whom they inspect or supervise in the course of their duties on behalf of TRS.
b. Perform official acts directly and substantially having negative economic impacts on businesses or undertakings in competition with a business or undertaking in which they have a significant interest.
c. Acquire an interest in any business or undertaking the employee has reason to believe may directly and substantially economically benefit from official action TRS is planning.
d. Perform an official act that will directly and substantially affect the economic benefit of a business or other undertaking in which the employee has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.
e. Lobby on behalf of an organization of which they are a member while performing their duties on behalf of TRS.
f. Have a private interest in any contract made by TRS.
g. Within 12 months following voluntary termination of employment with TRS, obtain employment in which they would take direct advantage of matters the employee was directly involved with while employed by TRS. These matters are rules other than rules of general application that they helped to formulate and applications, claims, or contested cases where they actively participated in the decision process.
h. Within 6 months following termination of employment with TRS, contract or be employed by an individual or entity who contracts with TRS with which the TRS employee was directly involved while employed by TRS. This does not apply to post-termination contracts awarded to the lowest bidder based on a competitive process or to merchandise sold to the highest bidder at public auction, or to an employee terminated because of a reduction in force.

D. Reporting Requirements

1. TRS personnel must disclose potential conflicts of interest to the Executive Director or Chief Legal Counsel prior to taking any action that will be or might be in violation of this policy or the law.

2. TRS personnel must disclose the nature of any private interest creating a conflict prior to acting in a manner impinging on public duty. TRS personnel must make the disclosure in writing to the commissioner of political practices.

3. TRS personnel must annually complete and submit to TRS a questionnaire regarding actual and potential conflicts of interest and private interests impinging on public duty.

Signature

By Board action taken on ***September 26, 2014*** and by my signature below, the TRS Board has authorized implementation of this original or modified policy. The effective date of this policy is:

_X_ the date of the Board action set forth above

____ (date) _____

BY: Kari Peiffer, Board Chair

_____
Signature

TRS policies may be amended or revoked from time to time, with amendments and revocations effective from the date of board action or later date as specified in the policy. The official version of any TRS policy is the version posted on the TRS website, which may be accessed at www.trs.mt.gov/trs-info/boardpolicies. Any deviation between the official version of a policy and a printed version will be resolved in favor of the official version. Hardcopy prints of policies will be dated as of the date of printing. Please make certain to review the material online prior to placing reliance on a printed version.