

## 07.02 Texas Higher Education Fair Lending Practices



Revised [November 15, 2018](#) (MO -2018)  
Next Scheduled Review: November 15, 2023  
Click to view [Revision History](#).

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### Policy Summary

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The president of each university (academic institution) in The Texas A&M University System will adopt guidelines implementing this policy. This policy sets out operational and conflict of interest standards to be observed and to aid in establishing a heightened awareness of the potential for conflicts of interest in the conduct of student financial aid programs.

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### Definitions

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Click to view [Definitions](#).

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### Policy

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#### 1. PROHIBITIONS

##### 1.1 Prohibition against solicitation or acceptance of gifts by the institution and the institution's employees.

1.1.1 The institution will not, directly or indirectly, solicit or accept any gift from or on behalf of a student loan lender.

1.1.2 An employee of the institution will not, on the employee's own behalf or on behalf of another person, directly or indirectly, solicit or accept any gift from or on behalf of a student loan lender. An employee will promptly report to the institution president any instance of a student loan lender attempting to offer or provide a gift to the employee.

##### 1.2 Prohibition against revenue sharing with lender.

The institution will not engage in revenue sharing with a student loan lender.

##### 1.3 Prohibition against acceptance of remuneration by institution employee for service on lender board.

- 1.3.1 An employee of the institution will not accept any remuneration or reimbursement of expenses from a student loan lender for serving as a member of, or otherwise participating in, an advisory board, or board of directors or any other board or management council of a student loan lender.
- 1.3.2 An employee of the institution must obtain written authority from the institution president to serve as a member or otherwise participate in an advisory board, board of directors or any other board or management council of a student loan lender before becoming such a member or participant.

1.4 Prohibition against misleading identification of lender employees and representatives.

The institution must not identify an employee, representative, or agent of a student loan lender to borrowers or prospective borrowers as an employee, representative, or agent of the institution, nor will the institution, subject to its good faith efforts, authorize an employee, representative or agent of a student loan lender to represent, explicitly or implicitly, that he/she is an employee, representative or agent of the institution.

1.5 Prohibition against high risk student loan agreements.

The institution must not enter into a high risk student loan agreement with a student loan lender under which the institution provides concessions or promises to the student loan lender that may prejudice borrowers or prospective borrowers.

1.6 Prohibition against directing potential borrowers to certain electronic loan agreements.

The institution will not direct in any manner a potential borrower who attends or has indicated an intent to attend the institution to an electronic master promissory note or other loan agreement that does not allow the borrower to enter the lender code or name for any student loan lender offering the relevant loan. This provision does not prohibit the institution from directing a potential borrower who has represented that he/she wishes to engage a particular lender to that lender's electronic loan agreements.

1.7 Disclosure of financing options required.

The institution will make available to a borrower, a borrower's parents, or a prospective borrower clear and conspicuous disclosure of information relating to available financing options under Title IV, Higher Education Act of 1965 (Pub. L. No. 89-329), including information on any terms and conditions of available loans under that title that are more favorable to the borrower than terms available through "preferred lenders." The institution's conspicuous posting of this information on a website available to borrowers, borrowers' parents and prospective borrowers will satisfy its duties under this section.

1.8 Requirements relating to lender lists.

- 1.8.1 Lenders cannot pay to be included on the lender list of a higher education institution.

- 1.8.2 If the institution provides or makes available to students or prospective students of the institution a lender list, it must ensure that the list:
- (a) is the product of a collaborative, objective process which recognizes the students' best interest as the overriding consideration;
  - (b) discloses clearly and conspicuously to borrowers and prospective borrowers the process and defined set of objective criteria by which the institution has selected student loan lenders for inclusion in the list, including the methods and criteria used to choose the lenders and the relative importance of the criteria;
  - (c) states, clearly and conspicuously to borrowers and prospective borrowers, that a borrower has the right and ability to select the student loan lender of the borrower's choice, is not required to use any of the lenders on the list, and will not be penalized for selecting a lender that is not on the list; and
  - (d) is reviewed and updated at least annually.
- 1.8.3 The institution's decision to include a student loan lender on a lender list and the institution's decision regarding where on the lender list the student loan lender's name appears must be determined solely by consideration of the best interests of the borrowers or prospective borrowers who may use the list, without regard to the pecuniary interests of the institution. Should the institution maintain a preferred lender list, unless the order of the lenders in the list is a rank order as determined by the process described in Section 1.8.2, the institution will periodically sort the list so entities on the list are shifted in their position. If the order of the lenders on the list is not a rank order, then the institution will clearly and conspicuously disclose that although each lender has been chosen based on the objective criteria described in the Texas Higher Education Fair Lending Practices, no lender within the list is preferred over another.
- 1.8.4 The institution may include a student loan lender on the institution's lender list only if the lender provides assurance to the institution and to borrowers of the lender that the advertised benefits on loan repayment will continue to benefit the borrowers regardless of whether the lender's loans are sold.
- 1.8.5 Before including a student loan lender on a lender list, the institution will make a reasonable inquiry regarding whether the lender has an agreement to sell its loans to another unaffiliated lender. If, after making reasonable inquiry, the institution has knowledge of such an agreement, the institution may include the lender on the institution's preferred lender list only if the existence and general nature of the agreement are disclosed clearly and conspicuously on the preferred lender list.
- 1.8.6 Before compiling a lender list, the institution will make a reasonable inquiry as to the availability of zero-interest loan providers and non-profit loan providers.
- 1.8.7 A student loan lender may not be placed on any institution lender list or be provided favored placement on any institution lender list for a particular type of

loan in exchange for benefits provided to the institution or to students of the institution in connection with a different type of loan.

1.8.8 The institution will not place a student loan lender on a lender list for a period of at least one year if the student loan lender has violated the Texas Higher Education Fair Lending Practices.

1.8.9 The institution must ensure that the requirements of 34 CFR Part 601, Subpart B are met with creating and distributing any lender list.

1.9 Prohibition against stock ownership.

A person employed in the financial aid office of the institution will not own stock or hold another ownership interest in a student loan lender, other than through ownership of shares in a publicly traded mutual fund or similar investment vehicle in which the person does not exercise any discretion regarding the investment of the assets of the fund or other investment vehicle.

## 2. REQUIREMENT

On a yearly basis, every employee of the financial aid office of the institution will receive training concerning Texas Higher Education Fair Lending Practices and Texas ethics laws relating to state employment.

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## Related Statutes, Policies, or Requirements

[Tex. Educ. Code § 61.003](#)

[Title IV, Higher Education Act of 1965 \(Pub. L. No. 89-329\)](#)

[34 CFR Part 601, Subpart B](#)

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## Member Rule Requirements

A rule is not required to supplement this policy.

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## Contact Office

System Office of Academic Affairs  
(979) 458-6072