

# PR 4

Office of the President  
December 13, 2005

Members, Board of Trustees:

## PROPOSED AMENDMENT TO THE GOVERNING REGULATIONS

Recommendation: that the attached revision to the Ethical Principles and Code of Conduct section of the University's Governing Regulations (GR Part I. D. 2. k.) relating to the internal and external audit functions be reviewed and approved for preliminary consideration. Final action by the Board of Trustees may occur at the January 24, 2006 meeting.

Background: The Sarbanes-Oxley Act, applicable to public companies that are subject to SEC regulation, was enacted by Congress in 2002 in response to concerns over corporate scandals, accounting irregularities, fraud, and related audit failures. The Act does not apply to colleges and universities and has no force of law for those institutions, although certain provisions have relevance to higher education management and oversight.

The National Association of College and University Business Officers (NACUBO) recommended that colleges and universities comply with the spirit of the Sarbanes-Oxley Act and issued an Advisory Report in November, 2003, to provide guidance on "best practices" to implement from the Act. The University of Kentucky is implementing the recommendations of NACUBO.

A provision of the Act makes it unlawful for a public company officer or director to fraudulently influence, coerce, manipulate, or mislead an auditor in the performance of an audit. NACUBO recommends that this issue be addressed in an institution's code of conduct/code of ethics as a specific violation of policy. The attached revision to the "Ethical Principles and Code of Conduct" is proposed to make the University's regulations compliant with NACUBO's recommendation.

The University's Treasurer, Henry Clay Owen, recommended this action to the Audit Subcommittee of the Board of Trustees' Finance Committee. The Audit Subcommittee agreed with the proposed amendment.

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Action taken:     Approved     Disapproved     Other \_\_\_\_\_

(j) Conflict of Interest

The public's respect and confidence in the University of Kentucky must be preserved. Confidence in the University of Kentucky is put at risk when the conduct of University members does, or may reasonably appear to, involve a conflict between private interests and obligations to the University. All University members shall avoid conduct that might in any way lead members of the general public to conclude that he or she is using an official position to further professional or private interests or the interests of any members of his or her family. In conducting or participating in any transaction, full disclosure of any real or perceived conflict with personal interests and removal from further participation in such matters is required.

*Administrative Regulation II-4.0-4 Conflict of Interest and Financial Disclosure Policy – Research* sets forth specific relationships and activities that pose a potential conflict of interest for faculty, staff, and students involved in research and related activities. The University recognizes that actual or potential conflicts of interest may occur in the normal conduct of research and other activities. A conflict of interest can also arise if an employee's professional judgment is or may appear to be influenced by personal interests. It is essential that potential conflicts be disclosed and reviewed by the University. After disclosure, the University can make an informed judgment about a particular activity and require appropriate oversight, limitations, or prohibitions in accord with this policy. It is important to remember that each relationship is different, and many factors often will need to be considered to determine whether a conflict of interest exists.

(k) Auditing Services

To effectively discharge their fiduciary and administrative responsibilities, the University's administration and the Board of Trustees are assisted by internal and external (independent) auditing services. These services provide independent, objective assurances and consulting services with respect to evaluating risk management, control, and governance processes. It is a violation of University policy to mislead or give false information to or intentionally omit material facts from internal or external (independent) auditor(s).

(l) Financial Advantage

Members of the University community must exhibit personal integrity, honesty and responsibility in all actions. Official position or office shall not be used to obtain financial gain or benefits for oneself or members of one's family or business associates. Any action that creates the appearance of impropriety should be avoided. Purchases and contracts shall not be made with an employee of the University of Kentucky for any item of supply, equipment, or service, nor may an employee have any interest, directly or indirectly, in any purchase made by the University of Kentucky (*Business Procedures Manual B.2.C*). An indirect interest may be defined as a real or perceived use of a university position or office with respect to a purchase or contract, leading to financial or other benefits to the individual or a member of his or her family. An indirect interest includes situations where a business owned or controlled by a family member does business with the University area where the employee is assigned.