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*Erasmus+KA2 DEFEP project
Distance Education for Future: best EU practices in response
to the requests of modern higher education seekers and labor market*



MODEL STANDARD ON THE PREVENTION AND RESOLVING POTENTIAL AND REAL INTEREST CONFLICT (in the distance form of higher education)



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PREAMBLE

- The Model Standard is not an original text and the compilers do not claim authorship and original source.
- The Model Standard was developed within the framework of the Erasmus+KA2 DEFEP project "Distance Education for Future: best EU practices in response to the requests of modern higher education seekers and labor market".
- The Model Standard was created on the basis of existing European and domestic practices, regulatory documents, methodological developments of individual institutions of higher education, as well as materials and cases of the Ministry of Education and Science of Ukraine, the National Agency for Higher Education Quality Assurance, etc.
- The Model Standard takes into account the experience of partner universities in the DEFEP project from Ukraine, Moldova, Germany, Spain, Italy, the results of a sociological survey, an analytical report and a monograph carried out within the framework of the project.

- The Model Standard is applicable to distance higher education.
- The Model Standard takes into account the peculiarities of the organization of the educational process, communication between distance learners and academic staff, access to resources and other aspects arising from the use of remote learning and interaction technologies. At the same time, the general provisions and mechanism for organizing work on preventing and resolving conflicts of interest, observing restrictions on preventing corruption and ensuring compliance with the requirements of Ukrainian legislation and regulations described in the Model Standard are universal for all forms of higher education.
- On the basis of the Model Standard, a higher education institution develops its own Standard on the Prevention and Settlement of Potential and Real Conflicts of Interest (hereinafter referred to as the Standard) or implements the provisions of the Model Standard relating to distance learning in the relevant provisions of the higher education institution.

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1. GENERAL PROVISIONS

1.1. The Standard on the Prevention and Resolving Potential and Real Conflicts of Interest (hereinafter referred to as the Standard) is established to ensure the effective functioning and development of the education system, taking into account the importance of preventing and settling conflicts of interest that may arise in this context.

1.2. This Standard defines the procedures and mechanisms for preventing and resolving conflicts of interest at the University among employees and seekers, including in distance learning.

1.3. In this Standard, the terms are used in the meanings given in the relevant legal acts regulating the corruption prevention.

1.4. In case of detection of a conflict of interest or violation of restrictions on corruption prevention among seekers or employees of the University, the relevant persons are obliged to provide information and documents confirming such facts to the authorized person for the corruption prevention.

1.5. The authorized person for the corruption prevention informs the Rector of the University or the person authorized to perform his/her duties (hereinafter referred to as the Rector) about the identified conflicts of interest and the measures taken to resolve them, including in the context of distance learning.

1.6. The Standard uses the term "close persons". Close persons are family members of the subject referred to in part one of Article 3 of the Law of Ukraine "On Prevention of Corruption", as well as husband, wife, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, brother and cousin, sister and cousin, brother and sister of the wife (husband), nephew niece, uncle, aunt, grandfather, grandmother, great-grandfather, great-grandmother, grandson, granddaughter, great-grandson, great-granddaughter, son-in-law, daughter-in-law, father-in-law, mother-in-law, father and mother of the wife (husband) of the son (daughter), adoptive parent, custodian or guardian, person under the care or custody of the said entity (Art. 1 of the Law of Ukraine "On Prevention of Corruption").

2. PREVENTION AND RESOLVING INTEREST CONFLICTS

- 2.1. Employees of higher education institutions are obliged to:
- take measures to prevent real and potential interest conflicts in the context of distance education;
 - report directly to their supervisor no later than the next business day from the moment when the person learned or should have learned about the existence of a real or potential interest conflict;
 - refrain from taking actions and making decisions in situations of a real interest conflict;
 - take measures to resolve identified real or potential interest conflicts in the context of distance education;

- not to induce subordinates to make decisions, take actions or omit to act in violation of the law in favor of their own or third parties' private interests, either directly or indirectly.

2.2. When deciding on the existence of a private interest in the area of official powers as a component of a conflict of interest, take into account the specific circumstances, relations and connections of the person, the scope of his/her official powers when making a decision.

2.3. In cases where an employee of the University, having a private interest, makes objective and impartial decisions, this is equally considered to be actions in conditions of a real interest conflict.

2.4. If an employee or a seeker becomes aware of an interest conflict between another employee and another seeker, they should notify the rector.

2.5. Notification of a real or potential interest conflict shall be submitted in writing and registered in accordance with the established document management system. The notification shall briefly describe the situation, private interest, official powers and circumstances that affect (or may affect) the objectivity and impartiality of decision-making.

2.6. If a seeker is a close relative of an employee, is or may be in direct or indirect educational, labor or other dependence on such an employee, and has a private interest, such an applicant must notify the rector in writing.

2.7. The seeker exercises all the rights and guarantees of an accuser, just like an employee. As an accuser, the seeker has the right to receive a fair current assessment and the right to an unimpeded and impartial examination and test session.

2.8. The procedure for resolving an interest conflict upon notification by a seeker is the same as upon notification by an employee.

2.9. In case of doubt as to whether an employee of the University has an interest conflict, he/she has the right to seek clarification from the relevant authorities in writing or by electronic means on the website of the university.

2.10. Advice on interest conflicts can be achieved by calling or directly contacting the authorized person for the prevention and detection of corruption.

2.11. Failure to indicate all the circumstances and details of the situation, information on the powers that can be exercised in the position, on the relations that give rise to private interest, failure to provide relevant documents will make it impossible to provide a reasonable conclusion on the absence of an interest conflict the authorized person for the prevention and detection of corruption.

2.12. The authorized person for the prevention and detection of corruption of the University shall provide a conclusion on the presence/absence of a conflict of interest based on the results of the analysis of the information provided by the person and in case of concealment, misrepresentation of information relevant to establishing the fact of the presence/absence of a conflict of interest, the conclusion under such conditions on the absence of a conflict of interest cannot be a basis for exemption from liability in accordance with the provisions of Part 6 of Article 28 of the Law of Ukraine "On Prevention of Corruption".

2.13. If an employee of the University has received confirmation of the absence of an interest conflict, he/she shall be released from liability if the actions regarding which he/she later sought clarification revealed an interest conflict.

2.14. Persons who have a real or potential interest conflict may independently take measures to resolve it by divesting themselves of the relevant private interest and provide supporting documents to the immediate rector of the University, whose authority includes dismissal/initiating dismissal from office. Deprivation of private interest should exclude any possibility of concealing it.

2.15. If the interest conflict could not be resolved independently, the Rector of the University, whose authority includes dismissal/initiation of dismissal, shall, within two working days after receiving a notification of a real or potential conflict of interest of a person subordinate to him/her, decide on an external settlement of the conflict of interest and notify the relevant employee.

2.16. The external settlement of an interest conflict involves the following measures:

- removal of a person from performing a task, taking actions, making a decision or participating in its adoption in conditions of a real or potential interest conflict;
- application of external control over the performance of a respective task of a person, certain actions or decision-making;
- restriction of access of a person to certain information;
- reviewing the scope of official powers of a person;
- transfer of a person to another position;
- dismissal of a person.

2.17. Each of the external interest conflict resolution measures has its own specifics, as it is chosen depending on a number of the following conditions:

- type of conflict of interest;
- the duration of the interest conflict;
- the subject of the decision to apply it;
- availability (absence) of alternative resolving measures;
- the presence (absence) of consent of the person to the application of the measure;
- the ability to involve other employees in decision-making;
- any measure to resolve an interest conflict is applied exclusively to a person who has an interest conflict in distance education;
- such measures cannot be applied to other persons, joint work with whom causes a conflict of interest, i.e. subordinates.

2.18. If employees who are members of a collegial body (commission, board, etc.) have a real or potential conflict of interest conflict, they are not entitled to participate in decision-making by that body. This includes:

- prohibition for a person to participate in the preparation of documents for decision-making by a collegial body on the relevant issue;
- the inability to take into account a person when determining the number of members required for the collegial body to be competent to consider the relevant issue;

- prohibition of participation of a person in consideration (discussion) of such issue; prohibition of participation of a person in decision-making by a collegial body (voting) on such issue.

2.19. A person holding a position in a collegial body is obliged to notify the collegial body in which the conflict of interest arose no later than the next business day after he/she learned or should have learned of the existence of a real or potential conflict of interest.

2.20. If a person learns of an interest conflict immediately before voting on a particular issue, the resolution of which causes such an interest conflict, he/she shall immediately notify the collegial body and shall not participate in the voting.

2.21. Any other member of the respective collegial body or participant of the meeting who is directly concerned with the issue under consideration may declare an interest conflict of such person. A statement of an interest conflict of a member of a collegial body shall be recorded in the minutes of the meeting of the collegial body.

2.22. If the non-participation of a University employee who is a member of a collegial body in decision-making by this body will lead to the loss of the authority of this body, the participation of such a person in decision-making should be executed under external control. The decision to exercise external control shall be made by the relevant collegial body.

3. RESTRICTIONS ON THE USE OF OFFICIAL POWERS OR POSITION IN DISTANCE LEARNING AT THE UNIVERSITY

3.1. Prohibition of using official powers for personal purposes: employees are obliged to refrain from using their official powers or position for personal purposes during distance learning.

3.2. Preventing conflicts of interest: employees should not allow situations where their participation in distance education creates an interest conflict between their official status and personal ambitions.

3.3. Restrictions on the use of resources: the use of resources belonging to the institution should be limited to purposes related to the performance of official duties.

3.4. Honesty and transparency: employees should act with honesty and transparency in all relationships during distance learning, avoiding any actions that may violate ethical standards.

3.5. Compliance with procedures and rules: employees are required to comply with all internal procedures and rules of the university during distance learning, in particular, regarding data confidentiality and use of resources.

3.6. Exclusion of influence on assessment: employees should not abuse their position or authority to influence the assessment of seekers or the results of distance learning.

3.7. Interest conflict notification: in case of an interest conflict, the employee must immediately notify the relevant institutional bodies or an authorized person.

3.8. Prohibition of corruption and influence: employees are obliged to refrain from any form of corruption and prevent any influence on seekers or other participants of distance learning for personal gain or to support the interests of third parties.

3.9. Respect for other status: employees should respect the rights and interests of other distance learning participants by refraining from any form of using their status to their advantage.

4. RESTRICTIONS ON THE JOINT WORK OF CLOSE RELATIVES

4.1. Employees of the University may not have close persons in direct subordination to them or be directly subordinated in connection with the exercise of authority to close persons. Direct subordination relations exist both between an employee and his/her immediate supervisor and between an employee and any of his/her supervisors who have the authority to decide (participate in the decision) on hiring, dismissal, application of incentives, disciplinary sanctions, giving instructions, orders, etc. and control over their implementation.

4.2. Persons applying for positions in the structural units of the University are obliged to notify in writing about their relatives working at the University.

4.3. In the case of circumstances that violate the requirements of the Law of Ukraine "On Prevention of Corruption", the relevant persons and persons close to them shall take measures to eliminate such circumstances within fifteen days. If these circumstances are not voluntarily eliminated within the specified period, the relevant persons or persons close to them shall be transferred in accordance with the established procedure to another position that excludes direct subordination within one month from the date of occurrence of the circumstances. If such a transfer is not possible, the person who is subordinate shall be dismissed from his/her position.

5. RESPONSIBILITY FOR VIOLATION OF REQUIREMENTS FOR PREVENTION AND RESOLVING OF INTEREST CONFLICTS , COMPLIANCE WITH RESTRICTIONS ON PREVENTION OF CORRUPTION

5.1. A person may be held criminally, administratively, and disciplinarily liable for violating the requirements for preventing and resolving interest conflicts and other restrictions on preventing corruption.

5.2. Decisions made by University employees in favor of a person from whom he/she or his/her close relatives received a gift are considered to be made in conditions of interest conflicts. Such decisions are subject to revocation by a higher-level manager or the Rector of the University, or may be declared illegal in court at the request of the person concerned.

5.3. Illegal disclosure or other use by an employee of the University in his/her own interests of official information that became known to him/her in connection with the performance of official duties shall entail liability under applicable law.

5.4. Disciplinary liability is provided for:

- failure to notify a person's direct supervisor of a potential interest conflict;
- failure of a manager to take measures to resolve an interest conflict of a subordinate employee;

5.5. An internal investigation is underway:

- to identify the causes and conditions that contributed to the commission of an offense or failure to comply with the requirements of the Law in any other way;
- by the decision of the Rector of the University on the basis of an official (report) note of the head of a structural unit or an authorized person for the prevention and detection of corruption.

6. ANTI-CORRUPTION WARNINGS

6.1. Participants of the educational process fully adhere to the fundamental principles of corruption prevention, ensure regular assessment of corruption risks in their activities, take appropriate measures to prevent and resolve conflicts of interest and corrupt actions that may arise in the performance of their duties.

6.2. Participants of the educational process are obliged to comply with the requirements of the Law of Ukraine "On Prevention of Corruption".

6.3. Participants of the educational process are strictly prohibited from directly or indirectly using their official powers or opportunities related to them to receive an unlawful benefit or accepting such a benefit or accepting a promise/offer of such a benefit for themselves or other persons or make promises/offers or an unlawful benefit to a person, specified in the first part of Article 3 of the Law of Ukraine "On Prevention of Corruption", or at their request to other individuals or legal entities with the aim of

inducing this person to unlawfully use the official powers granted to them or related opportunities.

6.4. For the commission of corruption or corruption-related offenses, participants of the educational process are subject to criminal, administrative, civil and disciplinary liability in accordance with the procedure established by law.

7. FINAL PROVISIONS

7.1. The Standard on Prevention and Resolving of Potential and Real Conflicts of Interest is approved by the Academic Council of the University and enters into force by the order of the rector of the University or a person authorized to perform his/her duties.

7.2. Changes and / or additions to the Standard are considered and approved by the University Academic Council and enter into force by the order of the rector of the University or a person authorized to perform his/her duties.