3.1 Coverage
The policies and procedures detailed in this manual apply to all instructional and administrative staff on the Miami payroll, regardless of the ultimate source of funding. Thus, individuals engaged to work on research grants, public service projects, support services, as well as departmental instruction and institutional administration are covered by these provisions, except when specifically noted otherwise.

3.2 Definitions
Ohio law specifies that all Miami University employees are part of the civil service of the state. Ohio law divides the civil service into classified and unclassified employees. Miami subdivides the unclassified civil service into instructional staff and administrative staff.

Policies affecting classified employees of Miami are administered by the Department of Human Resources. Information about these policies may be obtained from that office.

Full-time Employee
A person with an appointment to the instructional staff or unclassified administrative staff of .80 FTE or greater of at least nine (9) months duration. (Note that in order to earn vacation, unclassified administrative staff must have an appointment of 1.0 FTE of at least ten [10] months duration.)

Part-time Employee
A person with an appointment to the instructional staff or unclassified administrative staff of less than .80 FTE of at least nine (9) months duration.

Temporary Employee
A person with an appointment specifying service either part-time or full-time for a period of less than nine (9) months duration, i.e., semester by semester, three (3) months, six (6) months, etc.

Immediate Family
Unless otherwise defined in a policy, immediate family includes the employee’s mother, father, brother, sister, biological or adopted child, spouse, domestic partner, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, grandparent-in-law, anyone who stood in loco parentis to the employee as a child, and other persons for whom the employee is legally responsible.

Domestic Partner
A person of the same sex as the employee who meets the criteria of a domestic partner and is designated by the employee as a domestic partner on an Affidavit of Domestic Partnership. A completed Affidavit of Domestic Partnership must be on file with the Office of Benefit Services in order to use domestic partner benefits.

Retiree
A person who meets either of the following definitions:
a. An employee who applies for a pension benefit from an Ohio public employees retirement system (e.g., State Teachers Retirement System [STRS], Public Employees Retirement System
b. An employee who applies for a disability retirement benefit from an Ohio public retirement system or University-sponsored disability plan and whose application for that benefit has been approved. (Note that individuals receiving a disability retirement benefit from an Ohio public retirement system are deemed to be on a statutory leave of absence during the first five (5) years following the effective date of a disability retirement.)

3.3 Equal Opportunity
The policy of Miami University shall be that capability and merit are the basic criteria for employment and that capability, merit, and length of service are the basic criteria for promotion of all University academic and nonacademic staff. Equal opportunity shall be assured in hiring, promotion, retention, training, and other personnel matters regarding all employees without regard to race, religion, national origin, sex or sexual orientation, pregnancy, age, or disability. Discrimination against any individual for the above reasons is specifically prohibited, except where sex, age, or nondisability is a bona fide occupational qualification. The University shall effect its policy of equal employment opportunity through a positive and continuing affirmative action program.

3.4 Americans with Disabilities Act
Miami University does not discriminate against a qualified individual with a disability because of the disability with regard to job application, hiring or discharge of employees, employee compensation, job training, or other terms, conditions, and privileges of employment.

A qualified individual with a disability is one who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

A disabled employee or potential employee who requests reasonable accommodation shall identify the specific job requirement that he or she believes should be modified through reasonable accommodation.

Miami University will provide necessary reasonable accommodation if it can do so without undue hardship on the operation of Miami University.

Individuals should direct requests for accommodations to the Office of Disability Resources.

Questions and complaints should be directed to the Director of the Office of Equity and Equal Opportunity.

3.5 Religious Accommodation
In accordance with Title VII of the Civil Rights Act of 1964, Miami University will reasonably accommodate the religious beliefs, observances, and practices of its employees, e.g., accommodate a religious belief, observance, or practice which conflicts with an employment requirement.

Employees must direct requests for reasonable accommodation to the appropriate personnel office (Academic Personnel Services [faculty] or Department of Human Resources. The University will provide reasonable accommodation if it can do so without undue hardship on the conduct of University business. The appropriate personnel office will consult with the employee’s department to arrange reasonable accommodation.

3.6 Policy Prohibiting Harassment and Discrimination
IMPORTANT NOTE: To be acted on by the University, a written charge of discrimination or harassment must be filed within 300 calendar days of the most recent occurrence of the alleged
harassing or discriminatory behavior. A person who believes that he or she has been the victim of harassment or discrimination may proceed directly to the filing of a written charge (Section 3.6.J).

3.6.A Harassment and Discrimination Are Prohibited
Respect for human diversity is an essential element of the Miami University community. Miami University strongly opposes and will not tolerate harassment or discrimination on the basis of race, religion, national origin, sex or sexual orientation, pregnancy, age, or disability. This prohibition extends to discrimination in any form and to all forms of harassment, including the creation of an intimidating, hostile, or offensive working, learning, or living environment.

Discrimination and harassment are also illegal. This policy is not intended to impair or limit the right of anyone to seek a remedy available under state or federal law. Legal remedies may be pursued outside Miami University by contacting the Equal Employment Opportunity Commission, the Ohio Civil Rights Commission, or the United States Department of Education Office for Civil Rights, or by consulting an attorney at the individual's own expense. Under the law, there are various time limits for filing charges outside the University. Individuals should contact the agencies listed above or an attorney to determine the applicable time limits.

This policy may in some respects exceed the requirements of applicable law. However, this policy will not be enforced so as to infringe upon First Amendment rights, including the right to academic freedom.

3.6.B Coverage
This policy prohibits harassment and discrimination by or against all individuals on University property, including University employees and students as well as visitors, contractors, and other third parties. This policy also covers students and employees pursuing University-related work or study away from campus.

3.6.C Romantic and Sexual Relationships in the Instructional and Supervisory Contexts
The University discourages romantic and sexual relationships between supervisor and employee or faculty and student (see “Reporting Romantic and Sexual Relationships in the Instructional and Supervisory Setting”). In the event of an allegation of sexual harassment, the University will carefully scrutinize any defense based on a claim that the relationship was consensual when the facts establish that an academic or employment power differential existed within the relationship.

3.6.D Information and Assistance
Many offices and individuals on Miami's campuses provide general information and assistance regarding harassment and discrimination. Consultation with any office or individual other than those listed in Section 3.6.G will not be considered a report to the University and will not result in any action under this policy.

3.6.E Action
Any individual who believes he or she has been the victim of discrimination or harassment is encouraged to pursue relief under this policy. If, as the result of an investigation of a written charge, the University determines that there is reasonable cause to believe that discrimination or harassment has occurred, the University will take action to provide appropriate relief to the victim. The University will also take appropriate action, up to and including disciplinary action (Section 3.6.N), against the perpetrator.

3.6.F Retaliation Is Prohibited
It is a violation of this policy and applicable law for a person to be disciplined or otherwise disadvantaged as a result of a good-faith resort to this policy. Any retaliatory action or conduct taken by any individual against a person who has sought relief under this policy is strictly
prohibited and will be regarded as a separate and distinct violation of this policy. Examples of retaliatory action include assigning low grades, assigning undesirable teaching schedules, and giving deflated performance evaluations. This protection against retaliation extends to any individual who opposes acts of discrimination or harassment or who testifies, assists, or participates in any manner in an investigation, proceeding, or hearing relative to discrimination or harassment.

3.6.G Reporting Harassment or Discrimination
Any individual who believes he or she is the victim of harassment or discrimination may report the behavior directly to the Office of Equity and Equal Opportunity. Alternatively, the individual may report the behavior to any of the following individuals: a department chair, a dean, an administrative head of office, the Senior Director of Human Resources, the Director of Academic Personnel Services, the Director of Intercollegiate Athletics, or the Executive Director of a regional campus. Any individual designated in the preceding sentence who receives a report or has knowledge of harassment or discrimination must promptly inform the Office of Equity and Equal Opportunity, which will conduct a preliminary assessment of the report.

The report should not be made to the same individual who has committed the behavior believed to be harassment or discrimination. An individual who believes that he or she has been harassed or discriminated against by someone listed in the preceding paragraph should make the report to someone else on the list.

3.6.H Advisers
Any individual who reports harassment or discrimination and any individual against whom such an allegation is made may be accompanied at all stages of the process described in this policy by a friend, family member, or other individual of his or her choice to provide support and assistance.

3.6.I Initial Response to a Report
Upon the receipt of a report of harassment or discrimination, the Office of Equity and Equal Opportunity will make a preliminary assessment of the report. Every effort will be made to handle such reports fairly, impartially, and quickly. The Office of Equity and Equal Opportunity understands that these matters can be extremely sensitive. However, in order for the University to take action where warranted, it will usually be necessary to conduct an investigation. In order to protect both the individual making the report and the individual against whom the report has been made, every effort will be made to handle the matter discreetly. Because information relating to the report will be shared in the course of the investigation on a need-to-know basis only, or as otherwise required by law or under this policy, it is not possible to guarantee complete confidentiality. The Office of Equity and Equal Opportunity may facilitate an informal resolution of the report agreed to by all parties. An informal resolution of the report does not bar the subsequent timely filing of a written charge.

3.6.J Filing a Written Charge of Harassment or Discrimination
To initiate formal resolution procedures, an individual must file a written charge with the Office of Equity and Equal Opportunity within 300 calendar days of the most recent occurrence of the harassing or discriminatory behavior. This charge specifies the incident(s) of harassment and/or discrimination and is signed by the person making the charge. A copy of the charge must be provided to the individual against whom the charge is made.

3.6.K Investigation of a Written Charge
Within fifteen (15) class days of receipt of a written charge, the Office of Equity and Equal Opportunity will conclude its investigation to determine whether there is reasonable cause to believe that harassment or discrimination occurred, including the extent and severity of the violation. At the completion of the investigation, the Office of Equity and Equal Opportunity will issue a written report of its investigation that includes a finding of reasonable cause or no reasonable cause and related recommendations. A copy of the report will be given to both the charging party and
respondent. After the report is issued, both the charging party and respondent are permitted to review the Office of Equity and Equal Opportunity's investigation file.

3.6.L Review
If dissatisfied with the report of the Office of Equity and Equal Opportunity, either the charging party or the respondent may request a review by a Harassment/Discrimination Review Panel Committee (the Panel Committee). The request must be made in writing, stating the reasons therefor, to the Office of Equity and Equal Opportunity within ten (10) class days of receipt of the Office of Equity and Equal Opportunity's report.

The Harassment/Discrimination Review Panel (the Panel) is appointed annually by the President to serve for the undergraduate and graduate student bodies, the faculty, and the classified and unclassified staff. The Panel Committee will consist of five (5) members selected from the Panel. Each Panel Committee will receive appropriate training on University policies and procedures governing harassment and discrimination.

The composition of the Panel Committee will reflect the peers of the parties involved and will depend on the status of those parties:

<table>
<thead>
<tr>
<th>Parties Involved</th>
<th>Composition of Panel Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Both are faculty members</td>
<td>All faculty members</td>
</tr>
<tr>
<td>2. Both are staff members</td>
<td>All staff members</td>
</tr>
<tr>
<td>3. One is a faculty member and one is a staff member</td>
<td>Both faculty and staff members</td>
</tr>
<tr>
<td>4. If one is a student and one is a faculty or staff member</td>
<td>Two students and three faculty or staff members</td>
</tr>
<tr>
<td>5. If both are students EXCEPT</td>
<td>All students</td>
</tr>
<tr>
<td>a. If either student requests that one or two members be a faculty or staff member</td>
<td>One or two faculty or staff members; the rest students</td>
</tr>
<tr>
<td>b. If the charge arises out of a graduate assistant's teaching responsibilities</td>
<td>Two students and three faculty members</td>
</tr>
<tr>
<td>c. If the charge arises out of a graduate assistant's nonteaching responsibilities</td>
<td>Two students and three staff members</td>
</tr>
</tbody>
</table>

Both charging party and respondent will be presented with the list of names of all appropriate members of the Panel. Each party may disqualify up to three members from service on the Panel Committee. The President or President’s designee will select five (5) members from the remaining names and appoint one of the five to serve as Committee Chair. The Panel Committee will be
appointed within ten (10) class days of the receipt of the request for review. The Panel Committee will have full access to the Office of Equity and Equal Opportunity's investigation file.

3.6.M Decision of the Panel Committee
Within ten (10) class days of its appointment, the Panel Committee will issue a written report in which a majority of its members concur. In the report, the Panel Committee will do one of the following:

1. affirm or reverse the finding of no reasonable cause;
2. affirm or reverse the finding of reasonable cause;
3. remand the matter to the Office of Equity and Equal Opportunity for additional investigation and a supplementary report based on the additional investigation;
4. affirm or recommend modifying any recommendations made by the Office of Equity and Equal Opportunity; or
5. if the Panel Committee concludes that reasonable cause exists to believe that harassment or discrimination has occurred, it may instruct the Office of Equity and Equal Opportunity to take immediate action to eliminate the harassment or discrimination. No formal disciplinary action against the respondent shall be initiated except pursuant to the appropriate disciplinary procedure as cited in Section 3.6.N.

3.6.N Disciplinary Action
If there has been a finding of reasonable cause and a recommendation that the respondent be subjected to disciplinary action either in the report of the Office of Equity and Equal Opportunity or as a result of a review and report by the Panel Committee, the discipline, if any, to be imposed will be determined according to the procedures described in the Student Conduct Regulations, if the respondent is a student; the Ohio Civil Service Law or a collective bargaining agreement then in effect, whichever is applicable, if the respondent is a member of the classified staff; Section 13.2 of this policy manual if the respondent is a member of the unclassified staff; or Section 8.3 of this manual, if the respondent is a member of the instructional staff.

If disciplinary action is initiated, the respondent, the individual or office initiating disciplinary action, and the hearing body will be entitled to full access to the investigation file of the Office of Equity and Equal Opportunity and the file, if any, of the Panel Committee.

3.6.O Miscellaneous
1. After a timely written charge has been filed, subsequent time limits specified in this policy may be extended by the vice president who has authority in relation to the respondent, or by the President's designee for those respondents under no vice-presidential authority. Notice of the extension will be made in writing and will include the reason for the extension. Copies will be provided to both the charging party and the respondent.
2. It is a violation of this policy to knowingly make a false allegation of harassment or discrimination. However, failure to prove a claim of harassment or discrimination is not equivalent to making a false allegation. It is also a violation of this policy for a respondent or other individual interviewed by the Office of Equity and Equal Opportunity to knowingly make a false statement.
3.7 Grievance Procedures

3.7.A General
By means of the procedures described below, Miami University provides an opportunity for any employee to express a grievance and receive a fair hearing.

A grievance is a request for a particular decision or action, or a request for modification of, or relief from, a decision or action previously taken. An individual who feels a grievance exists is responsible for stating the grounds upon which the request is based, and the burden of proof rests upon the complainant.

Most complaints can be resolved through discussion between the staff member and the immediate supervisor. Individuals are encouraged to engage in direct consultation with each other so the problem can be solved through conciliation, if possible. Any retaliation against an employee for having made a complaint is grounds to file a second complaint based on retaliation.

Should such informal procedures not resolve the matter, the formal grievance procedures described below are available.

Every effort shall be made to expedite the processing of a grievance and to render a decision as quickly as possible. Time periods mentioned in any of the formal procedures below are to be considered as maximal. Any time limit specified, however, may be extended by mutual agreement between the respondent and the complainant, unless otherwise stated in the specific grievance procedure.

If the complainant does not take the grievance to the next level within the time specified, the grievance shall be considered resolved. If the respondent does not respond to a grievance within the specified time limits, the grievance can be taken to the next step of the formal grievance procedure.

3.7.B Formal Grievance Procedures Available to Various Groups
The University has several grievance procedures designed for specific groups.

• Instructional Staff. Instructional staff may pursue a solution through appeal to the Faculty Rights and Responsibilities Committee if the grievance relates to the complainant's role as a member of the instructional staff. See Section 8.1 of this manual.

• Administrative Staff. Section 13.5 of this manual describes the procedures available to members of the administrative staff for the resolution of grievances.

• Classified Civil Service Employees. The Supervisory, Administrative and Technical Support Staff (SATSS) Handbook describes the procedures available to Classified Civil Service employees for the resolution of grievances.

3.8 Files on Staff Members

3.8.A Information Accurate and Relevant
Various state and federal laws require certain information be maintained by the University, and sound employment decisions require that the University collect and retain information regarding employment history and performance. No person, office, or agency of the University shall maintain any files or records relating to a staff member’s private life or extraprofessional exercise of constitutional rights to expression or association. This policy protects the lawful practice of dissent, protest meetings, demonstrations, petitions, and the like.
3.8.B Inspection
Any employee (including his or her legal guardian or attorney who presents a signed written authorization) may inspect all documents maintained by Miami of which he or she is the subject. If an individual authorized to inspect personal information requests a copy of any documents that he or she is authorized to inspect, Miami University will provide a copy of the document(s) to the individual.

This section does not provide a right to inspect or have copied confidential information as defined in Section 149.43 of the Ohio Revised Code.

3.8.C Disputes Concerning Information
If an employee disputes the accuracy, relevance, timeliness, or completeness of personal information that is maintained by Miami University, the individual may request Miami, through the appropriate personnel office, to investigate the current status of the information. Miami University will, within a reasonable time, not to exceed 90 days after receiving the request, make a reasonable investigation to determine whether the disputed information is accurate, relevant, timely, and complete, and will notify the individual of the results of the investigation and of the action that Miami will take with respect to the disputed information. Miami University will delete any information that is proven to be erroneous.

If, after Miami’s determination, the individual is not satisfied, the individual may do either of the following: a) include a brief written statement of his or her position on the disputed information, or b) include a written notation that the individual protests and that the information is inaccurate, irrelevant, outdated, or incomplete.

Miami University shall include the statement or notation of dispute in any subsequent transfer or dissemination of the disputed information and may include with the statement or notation of dispute a statement by Miami University that it has reasonable grounds to believe that the dispute is frivolous or irrelevant and the reasons for its belief.

3.8.D Right of Public to Inspect and Copy Public Records
Miami University complies fully with Ohio’s Public Records Act (Section 149.43 of the Ohio Revised Code). When a request is received for inspection or copying of personnel records, Miami will respond within a “reasonable time.” The reasonableness of the time depends upon the nature of request, the location of the documents, and the number of documents to be reviewed. When a public records request is made to examine a personnel file, the employee, to the extent practicable, should be notified that his or her records have been requested and, if known, the name of the individual making the request. The fee for the service of copying upon request is currently ten ($.10) cents per page (cost subject to change).

3.8.E. Disciplinary Action
Any employee who initiates or otherwise contributes to any disciplinary or other punitive action against any individual who brings to the attention of appropriate authorities, press, or public, evidence of unauthorized use of personal information shall be subject to disciplinary action including written reprimand, suspension, or dismissal. It is not an unauthorized use of personal information to comply with Ohio’s Public Records Act.

3.9 Attendance at Professional Meetings
Miami University is firmly committed to a policy of encouraging staff members to continue professional development through attendance at professional meetings and conferences. To participate in such meetings an individual must make advance arrangements for classes and other University responsibilities, these arrangements to be acceptable to the department chair or other supervisor.
3.10 Faculty and Staff Participation in Companies Commercializing University Research

3.10.A. General Information
This policy applies to all faculty and staff who create intellectual property owned by Miami University and desire to hold an ownership interest in a firm, corporation, or other association to which the Board of Trustees has assigned, licensed, transferred, or sold the University’s interests in discoveries or inventions made or created by that employee or in patents issued to that employee commercializing his or her research.

This policy serves as exceptions to the Ohio Ethics Law and related statutes (Chapter 102 and Sections 2921.42 and 2921.43 of the Ohio Revised Code), which might otherwise apply. Matters outside the scope of this policy will be subject to such laws to the extent applicable.

3.10.B. Definitions
1. A technology commercialization company is a private commercial entity that is owned in whole or in part by a University employee and that has as its purpose the development and commercialization of University-owned technology created by that employee.

2. The Technology Transfer Oversight Committee is the University body responsible for the approval and oversight of technology commercialization companies pursuant to a delegation of authority from the University Board of Trustees. The Technology Transfer Oversight Committee shall be composed of a representative of each of the following offices: Office of the Provost, Office of the Vice President for Finance and Business Services, Office for the Advancement of Research and Scholarship, and Office of the General Counsel.

3. The Extramural Professional Activities Committee is the University body responsible for assisting faculty and other University employees in identifying, managing, and eliminating conflicts of interest, and, in particular, for facilitating the development of conflict-of-interest management plans for faculty and staff participating in technology commercialization companies.

3.10.C. Applicability
1. This policy applies to all faculty who create intellectual property owned by the University and desire to hold an ownership interest in a technology commercialization company.

2. This policy applies to staff members holding unclassified appointments, all graduate award holders, and student employees who
   a. are specifically assigned to engage in research and development activities,
   b. create intellectual property owned by the University, and
   c. desire to hold an ownership interest in a technology commercialization company.

3.10.D. Responsibilities of Department Chairs and Staff Supervisors
1. Department chairs are responsible for ensuring that faculty who participate in technology commercialization companies comply with this policy. Department chairs are also responsible for ensuring compliance with the University policies on Conflicts of Interest and Outside Employment and for reviewing and making a recommendation as to the propriety of private business activities reported by their faculty in disclosure forms required by those policies.
2. Staff supervisors are responsible for ensuring that employees who participate in technology commercialization companies comply with this policy. They are also responsible for ensuring compliance with the University policies on Conflicts of Interest and Outside Employment and for reviewing and making a recommendation as to the propriety of private business activities reported by staff in disclosure forms required by those policies.

3.10.E. Approval Process

1. Faculty and staff members who wish to participate in a technology commercialization company must first obtain approval from their department chairs and deans or other appropriate supervisors. The Technology Transfer Oversight Committee will be responsible for establishing the business terms of the transaction between the company and the University, and the Extramural Professional Activities Committee will facilitate the development of a conflict-of-interest management plan.

2. The Technology Transfer Oversight Committee will review the sufficiency of business terms and conflict-of-interest management plans relating to technology commercialization companies. Written approval from the Technology Transfer Oversight Committee must be obtained before any business agreements relating to a technology commercialization company are finalized.

3. Faculty or staff members who wish to participate in a technology commercialization company may discuss initial company formation with the Associate Dean for Research; however, they should not, as a general rule, participate in the ongoing negotiation of option and licensing terms between the company and University. As soon as possible, third parties, such as company management and/or legal counsel, should perform this function.

4. As a prerequisite to the granting of an exclusive license to University technology, a technology commercialization company must provide the Technology Transfer Oversight Committee with a viable business plan including, at a minimum, the following:
   a. a capitalization plan demonstrating access to funds necessary for company growth,
   b. a proposed management team, and
   c. milestones for product development and commercial sale.

5. In recognition of the University's ownership of the technology, a technology commercialization company shall grant the University an equity interest in the company as negotiated by the Technology Transfer Oversight Committee.

6. The faculty member's department chair or the staff member's supervisor must be an active participant in discussions with the Technology Transfer Oversight Committee and in the development of the conflict-of-interest management plan relating to a technology commercialization company.

7. A department chair or staff supervisor who has a financial interest or is a coparticipant with a faculty or staff member in a technology commercialization company is not in a position to provide effective oversight of that activity. In these situations, another disinterested administrator must be appointed to perform the responsibilities of the department chair or staff supervisor.

8. If the Technology Transfer Oversight Committee determines that, for any reason, it is not possible for the department chair, the staff supervisor, or another disinterested administrator to provide effective oversight of a transaction involving a technology commercialization company, the transaction should not be approved.
3.10.F. Responsibility for University Duties

1. Faculty are encouraged to develop discoveries and inventions with commercial potential; however, they should do so with due regard to the broader teaching and research mission of the University. Faculty should not allow their interest in a financial opportunity arising out of their research efforts to influence their teaching or advising of students, or to interfere with their relationships with other faculty. In particular, research assignments for students should be based on the students' interests and academic development. Faculty should respect and promote the cooperative nature of the academic environment by sharing information and participating in joint research efforts with their colleagues.

2. While faculty are permitted by the University policy on Outside Employment and this policy to engage in specified private business activities relating to their University positions, they continue to be responsible for the performance of all of their University teaching, research, and service obligations. Authorized private business activities must be undertaken in accordance with the University policy on Outside Employment and pursuant to formal consulting and conflict-of-interest management agreements between the faculty, the technology commercialization company, and the University and approved by the department chair, the Extramural Professional Activities Committee, and the Technology Transfer Oversight Committee.

3. Staff members may engage in activities relating to a technology commercialization company during regularly assigned working hours only if they take approved leave. When performed outside regularly assigned working hours, these activities must be undertaken in accordance with the University policies on Conflicts of Interest and Outside Employment and pursuant to a formal conflict-of-interest management agreement between the staff member, technology commercialization company, and the University and approved by the department chair and/or supervisor, the Extramural Professional Activities Committee, and the Technology Transfer Oversight Committee.

4. Staff members may pursue research projects as authorized by their supervisors. Supervisors should authorize only those staff research projects that will advance the missions of the University and the employing unit, without regard to the financial interests of individual employees.

3.10.G. Conflict-of-Interest Management Standards

1. University facilities, equipment, and other resources may be used for research benefiting a technology commercialization company only pursuant to a sponsored-research agreement, facilities-use agreement, or other appropriate contractual arrangement.

2. As a general rule, faculty or staff should not hold management positions in technology commercialization companies. While they may initially find it necessary to play a management role in a newly formed company, it is expected that their management responsibilities will decrease as the company develops. Professional management should be brought in at the earliest opportunity. In order to ensure the application of this principle, agreements between the University and a technology commercialization company should contain enforceable milestones for the reduction of these management responsibilities. Failure to comply with these agreed-upon milestones will result in the company's inability to engage in sponsored research and to utilize student employees and the other commercialization agreements and/or activities permitted under this policy.

3. Faculty should not allow their management activities with technology commercialization companies to consume a disproportionate amount of their professional attention. Faculty, engaged in approved private business activities, who are unable to perform all of their University
responsibilities, must reduce those activities or request a reduction of appointment or other approved leave. Professional improvement leave authorized under Section 3345.28 of the Ohio Revise Code may not be used for private business purposes.

4. Staff members who are unable to perform all of their University duties because of activities in connection with technology commercialization companies must reduce those activities or request a reduction of appointment or other approved leave.

5. Graduate and undergraduate students may use University facilities, equipment, and other resources to perform research benefiting a technology commercialization company only pursuant to a sponsored-research agreement. Such research may not be used to satisfy the criteria for a thesis or dissertation if the research material is restricted from publication. Students should be informed, in writing, of this restriction prior to the start of their research.

6. Students may be employed by a technology commercialization company, subject to the limitation set forth in Section 3.10.G.7. Prior to such employment, the student, the faculty or staff member, the chair of the student’s department, and a company representative must sign an agreement disclosing the student’s rights and obligations. If the student is a graduate student, the agreement must also be signed by the director of graduate studies in the student's department.

7. A student may not be employed by a technology commercialization company in which a faculty member has an ownership interest if:
   a. the student is enrolled in a course taught by the faculty member,
   b. the faculty member is a member of the student’s thesis or dissertation committee, or
   c. the faculty member is the student’s advisor or the director of his or her thesis or dissertation research.

   Such students may perform research benefiting a technology commercialization company only pursuant to a sponsored-research agreement or other formal internship agreement through the University.

8. Technology commercialization companies may not enter into any agreements with the University for the purchase, sale, or rental of equipment, supplies, or services other than those explicitly authorized by the Technology Transfer Oversight Committee.

9. As a general rule, faculty and staff members who are not directly involved with research and development of technology licensed to a technology commercialization company may not hold equity interests in that company. Equity ownership in these situations is permissible only to the extent allowed by Section 2921.42 of the Ohio Revised Code.

10. University regulatory review boards including, for example, the Institutional Review Board for Human Subjects Research and the Institutional Laboratory Animal Care and Use Committee, may be utilized for research benefiting a technology commercialization company only pursuant to a sponsored-research agreement.

11. As a general rule, an individual faculty or staff member should not hold more than twenty-five percent of the outstanding equity in a technology commercialization company. While significant faculty or staff equity ownership may be inherent in a newly formed company, it is expected that their ownership interests, as a percentage of the total outstanding shares or membership interests of the company, will decrease as the company develops and attracts additional equity.
In order to ensure the observance of this principle, agreements between the University and technology commercialization companies should contain enforceable milestones for the dilution of these equity interests. Failure to comply with these agreed-upon milestones will result in the company's inability to engage in sponsored research and to utilize student employees and the other commercialization agreements and/or activities permitted under this policy.

12. Faculty or staff members may not assume the role of principal investigator in sponsored-research projects funded by technology commercialization companies in which they have an interest if the projects involve the use of human subjects. In other cases, faculty or staff may assume the role of principal investigator if a formal research-integrity plan has been approved by the Extramural Professional Activities Committee and the Associate Dean for Research.

13. Agreements for sponsored-research projects funded by technology commercialization companies must include, at a minimum, a requirement for full University publication rights and fully negotiated cost recoveries. The Associate Dean for Research must approve exceptions to these conditions.

14. Faculty and staff participating in technology commercialization companies approved pursuant to this policy continue to be bound by the University policy on intellectual property. New inventions and/or discoveries made as a result of a faculty or staff member's research efforts for the company, including those made under formal consulting agreements, will be owned by the University and the company will be offered an exclusive option to the technology. New inventions and/or discoveries developed by the faculty or staff member for the company must be disclosed to the Office for the Advancement of Research and Scholarship.

3.11 Outside Employment
A member of the instructional or administrative staff employed on a full-time basis is expected to give full-time service to the University during the contracted time period, exclusive of published vacation periods. However, it is recognized that members of the instructional and administrative staff are sometimes asked by outside agencies and industries to provide consulting and other professional services. Normally such activity is encouraged when it:
• contributes to the professional development of the individual, or
• contributes an expertise not commonly available to the solution of a societal problem, or
• has carryover value resulting in the improvement of instructional or research programs of the University.

For full-time members of the instructional and administrative staff, outside consulting, professional work, or work under Section 3.10 of this manual for which the individual receives compensation over and above the individual’s normal compensation from Miami, shall not exceed an average of one day per working week in any semester. Time spent on such outside activities must be in addition to, rather than a part of, the normal full effort expected for University work. Outside work must in no way interfere with the performance of an individual's University duties.

Possible conflict-of-interest situations should be avoided. No outside consultation or other professional activity should be undertaken where such activity is, or may be construed to be, competitive with any service of the University. Normally, teaching in a program other than that of Miami University will not be approved. Research activities that would ordinarily be done under University auspices should not be performed by private individual contract.

Advanced authorization for outside consulting, teaching, or other professional work must be received from the appropriate department chair or supervisor, dean or director, and vice president. A form, "Request for Approval to Perform Outside Service," has been designed for this purpose.
Copies of the form may be obtained from Academic Personnel Services. Permission for such outside work is automatically terminated at the end of each University contract period; thus, a member of the instructional or administrative staff should request renewal each year for any continuing arrangement. Individuals on summer appointment are expected to comply with this policy during the period of summer contract.

University buildings, grounds, equipment and supplies, and personnel are provided and shall be used only for official University work. Such facilities and personnel may not be used in any private employment or consultative activity.

The staff member shall take appropriate steps to ensure that any publicity or advertising relating to authorized consulting or other outside employment is not detrimental to the good name and/or best interests of Miami University.

**3.12 Conflicts of Interest**

**3.12.A General**
With the acceptance of a full-time faculty appointment at Miami University, an individual makes a commitment to the University that is understood to be full-time in the most inclusive sense. Every member is expected to accord the University his or her primary professional commitment, and to arrange outside obligations, financial interests, and activities so as not to conflict or interfere with this overriding commitment to the University.

At the same time, no one benefits from undue interference with the legitimate external activities of faculty who fulfill their primary full-time duties — teaching at the University, conducting scholarly research under its sponsorship, and meeting the other obligations to students and colleagues that faculty must share. Indeed, the involvement of faculty members in outside professional activities, both public and private, often serves not only the participants but the University as well.

The statutes of the state of Ohio require all employees of the state to be aware of the Code of Ethics and the Conflicts of Interest provisions in the Ohio Revised Code. The Ohio Ethics Law is set forth in Chapter 102 of the Ohio Revised Code. A summary of this law can be found in the pamphlet *Ethics is Everybody's Business*, which is published by the Ohio Ethics Commission. Copies of this pamphlet are available in the office of Academic Personnel Services. The University publishes and distributes to all new faculty and staff the "Miami University Statement on Conflicts of Interest." That complete statement is reproduced here.

**3.12.B Miami University Statement on Conflicts of Interest**
As employees of an institution of the state of Ohio, all Miami University employees are subject to certain statutes of the state of Ohio relating to conflicts of interest.

The close relationship Miami has with the Oxford community along with the growth of sponsored research, consulting contracts, staff involvement in the management of private businesses, and similar developments in recent years have complicated the relationships between the University, government, and industry. One of the consequences has been to increase the dangers of conflicts of interest between the University obligations a faculty or staff member has and the obligations he or she may assume in extramural activities involving sponsored research, private business ventures, consulting, etc.

It has long been recognized that the only truly effective safeguard against a conflict-of-interest situation is the integrity of the faculty and staff. A codification of the complex ethical questions involved, even if possible, would be unduly restrictive. At the same time, even the most alert and conscientious individual may at times be in doubt concerning the propriety of certain actions or relationships. Whenever such doubt arises, the University expects the individual involved to consult
with the Associate Provost designated by the Provost or Executive Assistant to the Vice President for Finance and Business Services before making a decision.

Because of the importance of avoiding conflicts of interest and other ethical problems, and as a requirement of law, the following summary of pertinent statutes is being made available. The summary should not be relied upon as the basis for answering a specific ethics question or determining a course of conduct in a specific situation. The summary is intended only to give all employees a basic understanding of the circumstances under which ethical problems may arise. Once the employee becomes aware of an ethical issue, he or she should look into the matter in greater detail.

For a complete statement of the Ohio law, the statutes themselves should be consulted, copies of which are available from the appropriate personnel offices and on reserve in King Library and the regional campus libraries. However, an interpretation of those statutes also may require consulting with the Ohio Ethics Commission or the employee's own attorney, in addition to appropriate individuals at the University. Such consultation should, of course, occur before, not after, the taking of any action that might raise ethical issues.

There are two portions of the Ohio Revised Code that are directly applicable to University employees. The first of these is Chapter 102, the so-called Code of Ethics law; the second one is Section 2921.42, which is part of the criminal code. Section 2921.42 of the Ohio Revised Code is directly applicable to all state employees. Chapter 102 of the Revised Code has the same applicability, except that teachers, instructors, professors, and other educators are excluded when their job duties do not include "administrative or supervisory functions," Chapter 102.01(B). Because of the substantial areas of overlap between Chapter 102 and Section 2921.42, the criminal penalties which could result from violations of the latter, the difficulty of determining whether a particular position involves "administrative or supervisory functions," and the general policy of the University to promote compliance with ethical standards, all Miami University employees are expected to comply with both Chapter 102 and Section 2921.42 of the Ohio Revised Code, as well as Miami University's rules and regulations.

The specific sections of the Ohio Revised Code that are likely to affect Miami University employees are the following:

1. Section 102.03(b) prohibits public University employees from disclosing confidential information acquired during employment.

2. Sections 102.03(d), (e), and (f) prohibit the giving, receiving, or soliciting of anything of value which would "manifest a substantial and improper influence" upon a public University employee with respect to his or her duties.

3. Section 102.04 (A) prohibits employees from receiving or agreeing to receive, directly or indirectly, compensation other than from the University for any "service rendered or to be rendered" in any "case, proceeding, application or other matter" that is before the General Assembly or any state institution or agency, excluding the courts. This provision would have an impact upon, among others, faculty members who receive compensation for certain types of consulting work, particularly giving testimony before state agencies. The law does provide mechanisms that would permit this type of activity in most circumstances, but it requires the filing of a disclosure statement, copies of which may be obtained from the Ohio Ethics Commission.

4. Section 102.04(B) prohibits public University employees from selling or agreeing to sell, except through competitive bidding, goods or services to the General Assembly or any agency or institution of the state, excluding the courts. Again, there is a provision for exemption from
the prohibition in some circumstances if the public employee files a disclosure statement, copies of which may be obtained from the Ohio Ethics Commission.

5. Sections 2921.42(A)(1) and (2) prohibit a public University employee from authorizing or employing the authority or influence of his or her employment to secure any public contract or public investment in which the employee, a member of the employee's family, or any of the employee's business associates, has an interest.

6. Section 2921.42(A)(3) prohibits a public University employee from participating for profit in the prosecution of a public contract authorized by him or her as a public employee.

7. Sections 2921.42(A)(4) and (5) prohibit public University employees from having any interest in a contract entered into by the University; or having an interest in any contract with any other state agency or institution which is not let by competitive bidding and which involves more than $150. There are exceptions to these prohibitions, which are quite detailed. For further assistance, the Ohio Ethics Commission should be contacted.

3.12.C Areas of Potential Conflict of Interest
The areas of potential conflict may be divided into two broad categories. The first relates to conventional conflicts of interest — situations in which members may have the opportunity to influence the University's business decisions in ways that could lead to personal gain or give improper advantage to their associates. The second is concerned with conflicts of commitment — situations in which members' external activities, often valuable in themselves, interfere or appear to interfere with their paramount obligations to students, colleagues, and the University. Teachers and scholars are given great freedom in scheduling their activities with the understanding that their external activities will enhance the quality of their direct contributions to the University.

Section 3.12.F of this manual offers examples of activities and situations that may or may not give rise to potential conflicts of interest or conflicts of commitment. It has been, and continues to be, assumed that all faculty members will be alert to the possible effects of outside activities on the objectivity of their decisions, their obligations to the University, and the University's responsibilities to others.

3.12.D Informal Resolution
It is assumed that minor conflicts will still be resolved primarily through individual discretion or informal administrative action. It is also recognized that adequate protection for the University will frequently be derived through the traditional academic practices of scholarly publication and public disclosure of author and sponsor. Whenever members have any doubts about whether an activity may involve a major conflict of interest or commitment, they are expected to consult with the Associate Provost designated by the Provost or the Executive Assistant to the Vice President for Finance and Business Services.

3.12.E Standing Committee on Extramural Professional Activities
The Extramural Professional Activities Committee shall be composed of a representative of each of the following offices: the Office of the Provost, the Office for the Advancement of Research and Scholarship, the Office of the Vice President for Finance and Business Services, and three (3) faculty from different disciplines who are experienced in extramurally funded research and other extramural professional activities. Committee members will serve three-year staggered terms. The representative of the Provost's Office shall chair the Committee and will call it into session when needed. The Committee shall choose a vice chair from among its members.

The functions of the Committee are to review University policy on conflict of interest and conflict of commitment and to make such policy recommendations to University Senate as it deems appropriate. The Committee shall discuss problems involving conflicts of interest and conflicts of commitment brought to it by the Provost or the Provost’s designee, divisional deans, department
chairs, program directors, faculty, staff, and University Senate, and it shall report findings and make recommendations in such instances. In considering specific issues and cases involving conflict of interest and conflict of commitment, the Committee may call upon relevant experts for information and counsel. The Committee shall report regularly to University Senate.

3.12.F Consultation Regarding Conflicts of Interest
In the absence of specific rules (beyond the requirement to consult as to possible conflict), and in light of the difficulty of applying general statements of principles to specific cases, there follows a sampling of activities and situations. They are divided into three categories. Obviously, this list of examples does not include all potential problems and the separation into categories is somewhat arbitrary.

1. Activities that ordinarily are clearly permissible and usually do not require consultation with the designated Associate Provost or the Executive Assistant to the Vice President for Finance and Business Services. These are activities that are clearly permissible and may be pursued without consultation with the designated Associate Provost or the Executive Assistant to the Vice President for Finance and Business Services.
   • Acceptance of royalties for published scholarly works and other writings, or of honoraria for commissioned papers and occasional lectures.
   • Service as a consultant to outside organizations, provided that the time and energy devoted to the task does not exceed University guidelines and the arrangement in no way inhibits publication of research results obtained within the University. Prior University approval is required (See Section 3.11).
   • Service on boards and committees of organizations, public or private, that does not interfere with University obligations.

2. Activities that should be discussed with the designated Associate Provost or the Executive Assistant to the Vice President for Finance and Business Services even though the problems they present can probably be resolved, often simply by ensuring that the appropriate authorities know all pertinent facts. These are activities that should be discussed with the designated Associate Provost or the Executive Assistant to the Vice President for Finance and Business Services even though no irreconcilable conflict of interest or commitment is likely to be involved.
   • Relationships that might enable a member to influence Miami’s dealings with an outside organization in ways leading to personal gain or to improper advantage for anyone. For example, a member could have a financial interest in an enterprise with which the University does business and be in a position to influence relevant business decisions. Ordinarily, such problems can be resolved by full disclosure and by making arrangements that clearly exclude that member from participating in the decisions.
   • Situations in which the time or creative energy a member devotes to extramural activities appears large enough to compromise the amount or quality of his or her participation in the instructional, scholarly, and administrative work of the University itself.
   • Individual professional activities that may appear to conflict with University policies governing research funded by an external agency and with funds administered by the University. Though it is essential and desirable that members be free to individually pursue some projects and purposes that are deemed inappropriate for the University to sponsor (e.g., consulting on a proprietary basis or on government matters requiring secrecy), it is desirable that the existence (if not the specifics) of such activities, especially when they continue for an extended period be shared with the designated Associate Provost or the Executive Assistant to the Vice President for Finance and Business Services.
• Situations in which a member directs students into a research area from which the member hopes to realize financial gain. In such circumstances, the difficulty of making an objective and independent judgment about the student's scholarly best interest is obvious.

• Situations where an individual is offered an outside management position.

• Circumstances involving teaching at another institution in programs that are in direct competition with those of Miami.

3. Activities that should be brought to the attention of the designated Associate Provost or the Executive Assistant to the Vice President for Finance and Business Services and that appear to present such serious problems that the burden of demonstrating their compatibility with University policy rests with the faculty member. These are activities that seem likely to present an unacceptable conflict of interest or commitment and that must be discussed with the designated Associate Provost or the Executive Assistant to the Vice President for Finance and Business Services.

• Situations in which the individual assumes executive responsibilities for an outside organization that create conflicts of loyalty. (Individuals should consult the designated Associate Provost or the Executive Assistant to the Vice President for Finance and Business Services before accepting any outside management position.)

• Use for personal profit of unpublished information emanating from University research or confidential University sources, or assisting an outside organization by giving it exclusive access to such information; or consulting under arrangements that impose obligations that conflict with University patent policy or with the institution's obligation to research sponsors.

• Circumstances in which a substantial body of research that could, and ordinarily would, be carried on within the University is conducted elsewhere to the disadvantage of the University and its legitimate interests.

• Acceptance of special favors from private organizations with which the University does or may conduct business in connection with an externally-sponsored research project, or extension of special favors to employees of the sponsoring agency, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties.

3.12.G Grievance
When a faculty member has a grievance because of actions that have resulted from a conflict-of-interest situation, he or she has a right to appeal the matter to the Committee on Faculty Rights and Responsibilities.

3.13 Political Activity
University employees have the right to participate in political activity, which is defined as running for elective public office, serving as a political party official, or serving in an official capacity on a campaign committee for a candidate or issue.

However, because political activity may raise sensitive issues for Miami University as a state-assisted institution, there shall be no suggestion of association of Miami University with partisan political activity. Faculty shall refrain from carrying political activity into the classroom. All University employees shall take due precaution to divorce their political activity from any suggestion of association with Miami University. They shall not place political stickers, banners, flyers, or other political literature on University bulletin boards, in and on University buildings, or on any University property. No letterhead or insignia of the University will be used in any partisan political activity.
Any member of the faculty or staff proposing to engage in political activity as defined above shall notify the President in writing of his or her intention. The President may require assurance that the contemplated political activity will not interfere with the individual's academic or staff responsibilities. If it is determined by the President that such political activity will interfere with the individual's University responsibilities, then the President may require the individual to apply for a leave of absence without pay during the period that such political activity creates such interference.

3.14 Relationship Between the University and an Employee who is Elected or Appointed to Public Office

Instructional and administrative staff who are elected or appointed to public office shall notify the appropriate vice president upon their election or appointment. The form “Request for Approval to Perform Outside Service” shall be used for this purpose.

Members of the instructional or administrative staff, elected or appointed to public office, need not reduce their University commitment if the duties of the public office to which they are elected or appointed do not exceed an average of one day per working week in any semester. Time spent on such duties must be in addition to the normal effort expected for University work and may not interfere or conflict in any way with the performance of an individual’s University duties. Examples of the public offices to which this provision normally applies are school board member, city councilperson, or township trustee.

Members of the instructional or administrative staff elected or appointed to public office, the duties of which exceed an average of one day per working week in any semester, must either resign, be granted a personal leave, or reach an agreement based on negotiations with the appropriate vice president regarding a reduction in University commitment and corresponding reduction in compensation. All such agreements are subject to the written approval of the President. If the individual and the University fail to reach an agreement, then the individual must either be granted a leave or resign. Examples of the public offices to which this provision normally applies are judge, state representative, county commissioner, clerk of courts, or any other full or part-time state, county, or local office.

3.15 Employment of Members of the Same Family

Miami University imposes no restrictions on the concurrent employment of members of the same immediate family except the following:

1. One immediate family member may not supervise another or be in the supervisory line. No individual may be assigned to a department or a unit under the direct or indirect supervision of an immediate family member. An agreement must be reached as part of the terms of the initial appointment designating the position to which the individual will report. This agreement is subject to the approval of the senior administrator of the division in which the person is employed. If the individual is an immediate family member of the senior administrator of the division, then the agreement is subject to the approval of the appropriate vice president or the President, as applicable. Supervision includes the awarding of any benefits (e.g., promotion, retention, salary, leaves of absence, etc.).

2. Each immediate family member must be judged on his or her own merits and shall not be prejudiced (favorably or unfavorably) by the employment of another immediate family member or by their activities, status, rank, or position.

3. Each immediate family member must conduct himself or herself in accordance with all applicable state ethics laws and University ethics policies (See “Conflicts of Interest”).

4. Specifically, immediate family members may not:
Section 3 • General Employment Policies

3.16 Reporting Romantic and Sexual Relationships in the Instructional and Supervisory Setting

Faculty members and graduate students are prohibited from exercising academic supervision over persons with whom they have a romantic or sexual relationship. (“Academic supervision” is defined as assigning grades, sitting on a thesis or dissertation committee, or otherwise exercising decision-making power that affects the student's academic record, academic benefits, or progress toward graduation.) Supervisors are prohibited from having supervisory responsibility over persons with whom they have a romantic or sexual relationship. (“Supervisory responsibility” is defined as any relationship wherein one person has the power or authority to alter or influence the responsibilities, duties, terms, and/or conditions of employment of another. Those with “supervisory responsibility,” as used in this policy, are not limited to direct or first-line supervisors.) A faculty member, graduate student, or supervisor who has a romantic or sexual relationship with a person over whom he or she has academic or other supervisory responsibility must notify his or her immediate superior of the relationship. The faculty member, graduate student, or supervisor must be removed immediately from all decision-making processes and supervisory roles concerning the person with whom he or she has the relationship. The University requires the resolution of all conflicts of interest created by the relationship.

Failure to report the relationship, cooperate in the transfer of supervisory responsibility, and resolve all conflicts of interest are grounds for discipline, up to and including termination, under appropriate University policies.

3.17 Retirement

Miami University has no mandatory retirement age. A written notice is requested in case of service retirement. In order to assure an orderly transition, it is requested that at least ninety (90) days written notice be given to the appropriate personnel office.

See also “Retirement with Rehiring for Instructional Staff.”

3.18 Drug-Free Workplace

3.18.A Purpose

Miami University is dedicated to providing a safe, healthy, and efficient work place for its employees and for the entire University community. Therefore, Miami University recognizes that one of its most important obligations to its employees and students is to maintain a completely alcohol- and drug-free workplace.
3.18.B  Policy
1. The illegal use of drugs or alcohol in the workplace or on University property or as part of any University activity is strictly prohibited.

2. Employees may not be under the influence of drugs or alcohol in the workplace.

3. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance on University property or as part of any University activity is strictly prohibited.

4. Students and employees must notify Miami University of any criminal drug statute conviction for a violation occurring on University property no later than five (5) days after such conviction.

5. Any student who violates any portion of this policy will be subject to disciplinary action, including suspension or dismissal, under the Code of Student Conduct. Any employee who violates any portion of this policy will be subject to disciplinary action up to and including discharge under the appropriate disciplinary procedures.

6. The University reserves the right to include completion of an appropriate rehabilitation program as a disciplinary sanction.

7. For a description of the applicable legal sanctions under local, state, or federal law for the unlawful possession, use, or distribution of illicit drugs and alcohol, the health risks associated with the use of illicit drugs and the abuse of alcohol or a description of drug and alcohol counseling, treatment, rehabilitation, or reentry programs that are available to employees or students, please consult Miami’s annual publication, Your Right to Know.

3.19  Drug Testing

3.19.A  Definitions
"Applicant" shall mean any person applying for matriculation or employment in any position at Miami University.

"Controlled substance" shall mean such drugs forbidden or regulated under federal or state law or local ordinance.

“Drug test" shall mean any blood, saliva, breath, hair, urinalysis, or chemical test conducted for the purpose of detecting the presence of a controlled substance in an individual.

"Employee" shall mean any person rendering service for compensation to Miami University in any capacity.

"Student" shall mean any matriculated student on any campus of Miami University.

No drug test shall be performed at, by, or on behalf of Miami University upon any applicant, student, or employee as a precondition of admission, matriculation, loans, financial aid, or employment, or as a condition for continuing enrollment, employment, or enjoyment of any right or benefit that it is in the power of Miami University or its various divisions, departments, officials, or others under the authority of the Trustees to confer.
3.19.C  Exemptions
This regulation shall not apply to tests for drug impairment of operators of motor vehicles on University-controlled streets, if conducted by police authorities operating within the scope of ordinary and regular enforcement of the laws prohibiting operating motor vehicles while intoxicated.

This regulation shall not apply to any University employee whose job function is such that the use of intoxicants (including but not limited to ethyl alcohol and other controlled substances) would directly and immediately endanger the public safety, and where reasonable suspicion exists that such employee is impaired by the use of some intoxicant while on the job, for instance:

- armed police officers operating outside of the offices of the Miami University Police, or armed or unarmed personnel in these offices who are serving as dispatchers or in other nonclerical jobs where alertness is crucial for public safety;
- pilots and helicopter operators;
- air traffic controllers;
- lifeguards.

3.19.D  Notes
People serving in any of the listed job classifications may be tested as provided above even if they hold other statuses in the University (e.g., student or member of the faculty).

An athletic grant-in-aid and/or membership on any University sports team is a "benefit" that falls under this regulation.

Nothing in this policy shall be construed to prohibit the National Collegiate Athletic Association or other private groups from conducting drug tests for controlled substances (including steroids and other performance-enhancing drugs), provided that the tests be:

1. lawful and constitutional;
2. conducted off University property or on University property used in accordance with all regulations affecting outside groups invited to campus or allowed to use University facilities;
3. conducted in such a manner as not to interfere with students' academic studies (including regular class attendance), or with any normal operation of the University;
4. without cost to Miami University, including cost to the University in terms of significant investment of time by any University employee (e.g., providing a roster of players is permitted; using University staff on University time as "Urine Donor Validators" is not permitted).

3.20  Disruptive Behavior and the 1219 Procedure
Ohio House Bill 1219 provides for possible suspension from University employment upon arrest and for termination of University employment upon conviction of any of the criminal offenses enumerated in Section 3345.23(D) of the Ohio Revised Code.

3.20.A Procedure upon Arrest
House Bill 1219 requires that Miami suspend a University employee who is arrested for any of the criminal offenses enumerated in Section 3345.23(D) of the Ohio Revised Code, when either of the following conditions applies:

- the offense is committed on University property or affects University persons or property;
• the offense is committed in the immediate vicinity of Miami University if an emergency has been declared and is in effect pursuant to Section 3345.26 of the Ohio Revised Code.

A hearing will be held no more than five (5) days after arrest (continuances may be granted which may not exceed a total of ten [10] days).

The hearing shall be fair and impartial, but the formalities of criminal process are not required. The hearing shall be adversarial in nature. The individual whose suspension is being considered has the right, at his or her own expense, to be represented by legal counsel. The person also has the right to cross-examine witnesses, to testify, and to present the testimony of witnesses and other evidence. In the absence of a waiver of the right against compulsory self-incrimination, the testimony given at the hearing by the person whose suspension is being considered shall not subsequently be used in any criminal proceeding against the person. The hearing shall be held before a referee appointed by the Board of Regents.

If the referee finds by a preponderance of the evidence that the person committed any offense covered by Section 3345.23(D) of the Ohio Revised Code, the referee shall take one of following actions:

• order the person suspended immediately;
• permit the person to return to Miami under terms of strict disciplinary probation. The referee shall take this action only if the good order and discipline of Miami University will not be prejudiced or compromised thereby. Subsequent violation of the terms of the probation automatically causes a suspension.

The suspension is in effect until the person is acquitted or convicted of the offense. If the individual is convicted, the individual’s employment is automatically terminated. Upon acquittal, or upon any final judgment not resulting in a conviction of the offense charged, the following actions occur:

• the suspension or probation resulting from the 1219 Procedure is automatically terminated;
• the individual is reinstated, provided that no other disciplinary action has been taken (see Section 3.20.C);
• the record of the suspension or probation made under the 1219 Procedure is expunged from the individual’s University record.

Any suspension under this provision shall be without pay according to Section 3345.23(C) of the Ohio Revised Code. An order of the referee may be appealed to the Court of Common Pleas within twenty (20) days after the date of the order.

3.20.B Procedure upon Conviction

According to Ohio law, a University employee is subject to immediate dismissal if the individual is convicted of any of the offenses enumerated in Section 3345.23(D) of the Ohio Revised Code, when either of the following conditions applies:

• the offense is committed on University property or affects University individuals or property.
• the offense is committed in the immediate vicinity of Miami University if an emergency has been declared and is in effect pursuant to Section 3345.26 of the Ohio Revised Code.

Upon notification of the conviction, the President or President’s designee shall immediately notify the individual, in writing, by certified mail delivery, of the dismissal and offer the individual the opportunity to be heard. The hearing shall be limited to the issues of whether the individual was in
fact the individual so convicted and whether the conviction is for an offense enumerated in Section 3345.23(D) of the Ohio Revised Code.

The contract of a faculty or administrative staff member or other employee so dismissed is terminated upon dismissal. No salary or wages shall be paid or credited to the individual after dismissal.

A faculty or administrative staff member or other employee dismissed pursuant to this section may be reemployed at the discretion of the Board of Trustees but only after the lapse of one (1) calendar year following dismissal.

If the conviction is reversed on appeal, the individual shall be reinstated, the record of the dismissal shall be expunged from the individual’s University record, and the dismissal shall be deemed never to have occurred.

See Sections 3345.22 and 23 of the Ohio Revised Code for the full text of the statutes. See Appendix I of the Student Handbook for a list of criminal offenses that trigger these procedures.

3.20.C Effect on Other Policies and Procedures
An individual suspended, placed on probation, or dismissed under these procedures has no right to any other hearings or procedures provided under the policies, procedures, or rules of Miami University.

The University has the right, however, to pursue disciplinary action in accordance with the policies, procedures, or rules of Miami University, up to and including dismissal, against any faculty or administrative staff member or other employee at the same time that a 1219 Procedure is engaged and/or at the same time as criminal proceedings, even if the criminal charges involving the same incident are not complete, have been dismissed or were reduced. (See Section 3345.24 of the Ohio Revised Code)