



Legislative Mandates Restricting the Use of Federal Grant Funds	
Responsible Official: Chief Financial Officer	Responsible Office: Business and Finance

Policy Purpose

The purpose of this policy is to address the requirements mandated by the Further Consolidated Appropriations Act, 2020 (Public Law 116-94), signed into law on December 20, 2019, which provides funding to the Health Resources and Services Administration (HRSA) for the fiscal year ending September 30, 2020. The intent of this policy is to provide information on statutory provisions that limit the use of funds on HRSA grants and cooperative agreements. Legislative mandates remain in effect until a new appropriation bill is passed setting a new list of requirements.

Policy Statement

East Tennessee State University (ETSU) shall adhere to Health and Human Resources legislative mandate(s) through policy creation, implementation, and monitoring. The legislative mandate is outlined with links to ETSU specific policies.

The current Legislative Mandates, which remain in effect until a new Appropriations Act is passed, include the following:

1) Salary Limitation – ETSU shall not use federal grant funds to pay the salary of an individual at a rate in excess of Executive Level II. The Executive Level II salary is currently set at \$197,300 as of January 1, 2020.

2) Gun Control – ETSU shall not use federal grant funds to advocate or promote gun control.

[ETSU Anti-Lobbying](#)

3) Anti-Lobbying

A. ETSU shall not use federal grant funds, other than for normal and recognized executive legislative relationships, for the following:

i. For publicity or propaganda purposes;

ii. For the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body, except in presentation to the Congress or any State or local legislature itself, or designed to support or defeat any proposed or

pending regulation, administrative action, or order issued by the executive branch of any State or local government, except in presentation to the executive branch of any State or local government itself.

- B. ETSU shall not use federal grant funds to pay the salary or expenses of any employee or agent of ETSU for activities designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- C. The prohibitions in subsections A and B include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

ETSU Anti-Lobbying

4) Acknowledgment of Federal Funding - When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, ETSU shall clearly state:

- A) the percentage of the total costs of the program or project which will be financed with Federal money;
- B) the dollar amount of Federal funds for the project or program; and
- C) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources."

(5) Restriction on Abortions

- (a) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for any abortion.
- (b) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for health benefits coverage that includes coverage of abortion.
- (c) The term "health benefits coverage" means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement."

(6) Exceptions to Restriction on Abortions (Section 507)

- (a) The limitations established in the preceding section shall not apply to an abortion –
 - (1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

Tennessee Code Annotated § 56-26-134 ([Tenn. Code Ann. § 56-26-134](#)) states "No health care plan required to be established in this state through an exchange pursuant to federal health care reform legislation enacted by the 111th Congress shall offer coverage for abortion services. For purposes of this section, "abortion" has the same meaning as defined in § 39-15-201."

(d)

(1) None of the funds made available in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

(2) In this subsection, the term "health care entity" includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan."

7) Ban on Funding of Human Embryo Research – ETSU shall not use federal grant funds for (i) the creation of a human embryo or embryos for research purposes; or (ii) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.204(b) and section 498(b) of the Public Health Service Act ([42 U.S.C. 289g\(b\)](#)).

[ETSU Research Compliance](#)

(8) Limitation on Use of Funds for Promotion of Legalization of Controlled Substances

(a) ETSU shall not use federal grant funds to promote the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive-congressional communications.

(b) The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

ETSU Anti-Lobbying

(9) Restriction of Pornography on Computer Networks

(a) ETSU shall not use federal grant funds to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

(b) Nothing in subsection (a) shall limit the use of funds necessary for any federal, state, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

ETSU Restriction of Pornography on Computer Networks

(10) Restrictions on Funding ACORN – ETSU shall not provide any federal funds to the Association of Community Organizations for Reform Now (ACORN), or any of its affiliates, subsidiaries, allied organizations, or successors.

(11) Restriction on Distribution of Sterile Needles – ETSU shall not use federal funds to purchase sterile needles or syringes for the hypodermic injection of any illegal drug: Provided, That such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant State or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the State or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with State and local law. ETSU shall comply with Public Chapter No. 413 enacted May 18, 2017.

Tennessee Public Chapter No. 413

(12) Confidentiality Agreements

(a) ETSU shall not require its employees or contractors seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(b) The limitation in subsection (a) shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

ETSU Contract Management Office of Research and Sponsored Programs

ETSU Reporting Fraud and Abuse

Definitions

Salary Limitation: Executive compensation for individuals paid through federal funding that is established through federal regulations.

Gun Control: The act of promoting or advocating for gun rights.

Lobbying: The act of advocacy with intention of influencing decisions made by government officials.

Notice of Funding: The process of acknowledging federal funding in writing for all activities associated with federal funds.

Abortion: The deliberate termination of human pregnancy.

Embryo: an unborn human fetus

Controlled Substance: Substances regulated under 21 U.S. Code § 811. Authority and criteria for classification of substances

Pornography: Printed or visual material containing the explicit description or display of sexual organs or activity intended to stimulate erotic rather than aesthetic or emotional feelings. (Oxford Dictionary).

Computer Network: A group of computer systems and other compiling hardware devices that are linked together through communication channels to facilitate communication and resource-sharing among a wide-range of users (www.techopedia.com).

ACORN: Association of Community Organizations for Reform Now.

Sterile Needle: Sterile devices used to inject solutions into or withdraw secretions from the body (www.encyclopedia.com)

Policy History

Effective Date: 8/24/2020

Revision Date:

Procedure (s)

1. Review and Updates of this Policy and Procedure (P&P)

The Office of Research and Sponsored Programs shall review this Policy and Procedure upon the passage of a new HHS Appropriations Act or issuance of HRSA guidance regarding the Legislative Mandates, and shall ensure this P&P is updated as necessary. As Appropriations Acts are generally enacted annually, this P&P will generally require annual review. Any modifications to this Policy and Procedure will require review and approval by ETSU's Board of Trustees.

2. Legislative Mandates Training

The Office of Research and Sponsored Programs shall ensure that the Principle Investigators receive training regarding the Legislative Mandates and the procedures set forth in this P&P.

3. Compliance Program

This Legislative Mandates P&P will be incorporated into ETSU's Compliance Program.

4. Financial Management

The Chief Financial Officer (“CFO”) shall ensure that ETSU’s financial management systems and procedures are structured to ensure that no federal grant funds are used for purposes that are impermissible under this Policy and Procedures. As necessary, the CFO may establish cost centers/accounts for the accumulation and segregation of such costs. The CFO may use any practical means to do so, consistent with ETSU’s financial management policies (including by establishing appropriate cost centers and associated accounts to accumulate and segregate the following costs where necessary). Through this process, ETSU’s will adhere to the Legislative Mandates restrictions on use of federal funds for:

- i. “Lobbying” or other “advocacy” activities that may meet the definitions of the applicable Legislative Mandate sections (as well as 45 C.F.R. § 75.450) (including certain advocacy relating to gun control, legalization of controlled substances, consumer products, and other advocacy);
- ii. Payment of a salary (or associated fringe benefits) at a rate in excess of the Executive Level II pay scale;
- iii. Abortions or health benefits coverage that includes coverage of abortion (this restriction shall not apply to abortions (or health benefits coverage of abortions) that fall within the Hyde Amendment exceptions);
- iv. Activities related to distribution of sterile needles for hypodermic injection of any illegal drug;
- v. Human embryo research; and
- vi. Business transactions with (including the funding of) the Association of Community Organizations for Reform Now (“ACORN”).

Acknowledgment of Federal Funding

All requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with federal money, will be reviewed and approved by the ETSU’s Procurement and Contract Services Department. The Procurement and Contract Services Department shall ensure that such written material include the following:

“This publication is issued in furtherance of ETSU’s federally funded health center project. This year, ETSU’s health center project received \$ ____ of federal assistance, which is estimated as constituting ____ percent of project costs. Of total project costs for this year, ETSU estimates ____ percent will be financed with nongovernmental sources.”

5. Restriction of Pornography on Computer Networks

ETSU’s computer network is and shall remain configured to block the viewing, downloading, and exchange of pornography. Information Technology Services shall ensure appropriate information technology assets and support are made available to ensure continued compliance.

6. Confidentiality Agreements

ETSU’s Grant Accounting Department and/or Office of University Counsel shall review any and all confidentiality agreements entered into between ETSU and its employees and/or contractors and, prior

to execution, shall confirm that such agreements do not prohibit or otherwise restrict the employee/contractor from lawfully reporting waste, fraud, or abuse to (i) federal law enforcement or other federal investigative personnel, or (ii) other representatives of federal departments and agencies.

Procedure History

Effective Date: 08/24/2020
Revision Date:

Related Form(s)

Scope and Applicability

Check those that apply to this policy and identify proposed sub-category.

	Governance	
	Academic	
	Students	
	Employment	
	Information Technology	
	Health and Safety	
X	Business and Finance	
	Facilities and Operations	
	Advancement	