

Doane University – FCPA FAQs

What is the FCPA?

The FCPA is the Foreign Corrupt Practices Act of 1977, a law which prohibits a director, employee, or agent acting on behalf of Doane from offering to pay, paying, promising to pay, or authorizing the payment of money or anything of value to a foreign official in order to secure any improper advantage.

Who are foreign officials?

Foreign officials includes “any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization.”

It is important to be cautious when working in foreign countries because you may not always be aware when someone is a foreign official or not. Administrators and faculty at foreign state universities likely qualify as foreign officials.

Further, close family members of foreign officials can present risk because any benefits, gifts, or “thing of value” provided to such persons can be seen as providing value to the foreign official.

Does the FCPA apply to me?

Likely yes. The FCPA applies to any individual who is a citizen, national, or resident of the United States, and any business that is organized under the laws of the United States (like a university).

May I provide a gift to someone in a foreign country without violating the FCPA?

Under the correct circumstances, you may. A small gift or token of esteem or gratitude can often be an appropriate way to display respect. Appropriate gift-giving is when the gift is (1) given openly and transparently, (2) properly recorded in Doane’s books and records, (3) provided only to reflect esteem or gratitude, and (4) permitted under local law. Always keep gifts and entertainment reasonable—the larger a gift, the more likely it was given with an improper purpose.

It is Doane's policy that you must obtain written approval before making any gift to colleagues at foreign state-run universities. Please check with the Vice President of Finance and Administration prior to doing so.

Does offering a scholarship present any risk under the FCPA?

A scholarship can be considered something of “value” under the FCPA. Thus, offering a scholarship to a foreign official would raise concerns under the FCPA. Also concerning would be if a scholarship was offered to any other person, such as a relative of a foreign official, where the circumstances suggest that the scholarship might induce or reward an improper decision of a foreign official.

What does “anything of value” mean?

A thing of value can include cash, non-cash gifts, or other benefits, including:

- Travel, meals, or entertainment
- Scholarships
- Training or internships (e.g., paid internships for the relative of a foreign official)
- Employment
- Charitable donations

What are some specific examples of scenarios that may introduce risk under the FCPA?

Scholarships to individuals: Ensure that any scholarships are not given to any foreign officials or family members of any foreign officials, and, if they are, that they are not provided in order to secure any improper advantage.

Payments to foreign third-party agents: Ensure that third-party agents have been vetted with Doane. Any payments made to foreign third parties need to be carefully monitored. Ensure that any commissions paid or other payments made to third-party agents are fair and reasonable, and that such third-party agents are not passing along any payments to any foreign officials.

How can I receive more guidance regarding the FCPA?

You can receive additional guidance regarding the FCPA by contacting the Vice President of Finance and Administration. You can also review the guide set forth by the Department of Justice at <http://www.justice.gov/criminal/fraud/fcpa/guidance/guide.pdf>