

## 330.015 Policy on Conflict of Interest

Bd. Min. 1-25-90, Amended 10-05-07, Amended 11-29-07, Amended 3-22-11, Amended 7-27-12, Amended 6-17-16; Amended 4-9-20; Amended 7-28-20.

### A. Conflict of Interest -- General Provisions

1. **Applicability.** This policy is applicable to all Employees of the University as defined herein. Additionally, for research involving human subjects, researchers and certain University officials must also comply with Collected Rules and Regulations (“CRR”) 410.020 pertaining to Institutional Conflicts of Interest in Human Subjects Research. Likewise, investigators on funded or proposed NSF or PHS research or educational activities must also comply with CRR 420.030.
2. **Policy.** Employees shall faithfully discharge their duties and shall refrain from knowingly engaging in any outside matters of financial interest or commitment incompatible with the impartial, objective, and effective performance of their University Responsibilities and in the conduct of University affairs. They shall not realize personal gain in any form which would influence improperly the conduct of their University Responsibilities. They shall not improperly use University property, funds, confidential or proprietary information, students, position or power for personal or political gain. They shall inform their chairpersons/supervisors in writing of their Outside Interests. Compliance with this policy promotes objectivity in research by establishing standards that provide a reasonable expectation that the proposal, design, conduct, and reporting of research will be free from bias resulting from Employee conflicts of interest.
3. **Sanctions.** Conduct by an Employee that violates the University's policies, regulations or rules pertaining to conflict of interest shall constitute a breach of the employment contract and may lead to disciplinary action. The Conflict of Interest Committee may make a determination of a violation of this policy and will report such violation to the Chancellor. After the finding of a violation, the Chancellor of each campus, in consultation with the respective Conflict of Interest Committee, may apply sanctions, including but not limited to, one or more of the following:
  - a. Letter of warning or admonishment.
  - b. Suspension or termination of research compliance committee approvals.
  - c. Suspension or termination of the privilege to submit sponsored activity proposals.
  - d. Suspension or termination of sponsored research activity spending authority.
  - e. Demotion or removal from assigned administrative roles.
  - f. Referral to campus Committee on Tenure or other appropriate committee for discipline or dismissal for cause of faculty.

- g. Suspension or termination of employment (pursuant and subject to CRR 310.060, Procedures in Case of Dismissal for Cause, for those faculty covered by that rule).

**B. Definitions**

1. “Employee” means:

- a. Any person receiving compensation from the University for services rendered, regardless of whether the person is benefit eligible or non-benefit eligible (e.g., full-time or part-time), or classified under other sections of the CRR as Academic Staff or Administrative, Service and Support Staff;
- b. Any person receiving compensation paid through the University from any funds placed in its hands for distribution; or
- c. Any person that has voluntarily elected to enter into an agreement or an agreement entered into on their behalf with the University to be treated as an “Employee” for purposes of this policy. For purposes of this policy, the receipt of compensation shall not be interpreted to include:
  - i. Receipt of student financial aid, including but not limited to, scholarships, grants, loans, tuition waivers and educational fee reductions, generally available to University students and unrelated to any provision of services by the student to the University; or
  - ii. Payments to independent contractors.

2. “Outside Interest” means:

- a. An employment, consulting, or other professional activity or service, paid or unpaid, for a third party that is not part of the Employee's University Responsibilities, and such activity or service for the third party nonetheless relates to work within the scope of the Employee's University Responsibilities. This includes, without limitation, any activity or service that involves the use of the Employee's expertise, the practice of the Employee's profession, or any activity or service that contributes to the Employee's professional competence or development; or
- b. A direct or indirect financial interest in an entity that proposes to do business or is doing business with the University; or
- c. A direct or indirect financial interest in an entity that proposes to acquire or has acquired rights to University owned intellectual property; or
- d. Whenever an Employee's duties include research or investigation, a direct or indirect financial interest in an entity conducting research or business that is relevant to the scope of the Employee's University Responsibilities; or
- e. Any other activity that could be construed as relating to or overlapping or competing with the core missions of the University.

3. "University Responsibilities" means an Employee's responsibilities for which such Employee was hired and conducted at or undertaken on behalf of the University, which may include, but is not limited to, activities such as research, research consultation, teaching, outreach/extension, professional practice, institutional committee memberships and service on University-based panels.
  4. "Manage" (or "Managed") means taking action to address an actual or potential conflict of interest, which can include reducing or eliminating the conflict to ensure to the extent possible that the Employee's University Responsibilities will be free from bias. "Manage" may include, without limitation, a formal written Conflict of Interest Management Plan.
  5. "Gift" means any tangible or intangible item or items having a monetary value in excess of \$75. This maximum value applies to each gift transaction.
  6. "Prohibited Source" means any person or entity, public or private, outside the University, with interests, financial or otherwise, that may be substantially affected by the recommendations, decisions, performance or non-performance of the duties of the Employee.
- C. **Use of Confidential Information** -- Employees shall not use University confidential or proprietary information obtained by reason of their University employment with intent to cause financial gain to themselves or unfair advantage for another person.
- D. **Prohibition Against Acceptance of Gifts**  
Employees of the University shall avoid accepting Gifts for personal use, directly or indirectly, from Prohibited Sources, except as permitted in Section 330.015.D.1. below.
1. **Exceptions** -- The following shall not be considered a violation of this policy:
    - a. Gifts that are available to the Employee on the same conditions as for the general public;
    - b. Educational materials utilized in the performance of the Employee's University job;
    - c. Awards or honoraria administered by or through the University;
    - d. Gifts from the Employee's relatives, by blood or marriage;
    - e. Any item of food, refreshment, entertainment or other benefit provided to the Employee while attending a meeting, conference or convention provided on the same conditions as for other attendees; provided that if the item could be considered as lavish, then approval must be obtained under subparagraph f. below;
    - f. Any Gift if approved in writing in advance by an administrative superior who is a University General Officer, or in the event of the President, then approval of the Chair of the Board of Curators.
  2. Each General Officer approving acceptance of Gifts under Section 330.015.D.1.f. shall report all such approvals annually to the President.
- E. **Responsibilities of University Employees** -- An Employee's Outside Interests must not interfere with the Employee's University Responsibilities nor represent a conflict of interest that is not or cannot be Managed. Exempt staff and faculty Employees shall disclose all Outside Interests annually, and shall disclose any changes or acquisition of a new Outside Interest, as such interests arise. Provided that each campus may adopt

procedures by which adjunct faculty are not subject to annual reporting requirements (except as required by federal law) and instead disclose all Outside Interests prior to initial employment and disclose any changes or acquisition of a new Outside Interest as such interests arise. All other Employees shall disclose Outside Interests as such interests arise (e.g., transactional reporting). The following situations are illustrative of such activities and interests. This list should not be considered exhaustive.

1. **Grants and Contracts Involving an Employee Financial Interest.** When it is proposed that the University enter into (1) contracts for the sale of goods or services, or (2) research contracts or grants, or (3) other contracts with individuals, private firms or business entities in which an Employee knows the Employee has a direct or indirect financial interest, the following procedure shall be followed:

Before the proposed contract is negotiated by the University, the Employee shall make a disclosure of such financial interest, in writing, which disclosure shall be forwarded to the official having contract approval authority.

If there is a change in the financial interest of the Employee during the term of the contract, the change shall be disclosed immediately by the Employee, in writing, and forwarded to the official having contract approval authority.

Except as provided in Paragraph E.1.d., if the financial interest of the Employee in the private firm or business entity is such that it could influence the decision-making process of the private firm or business entity and the Employee could also influence the decision-making process of the University in entering into or performing the contract:

The University shall not enter into the contract or shall cancel the contract, if the terms of the contract so permit; or

The University and Employee shall enter into a Conflict of Interest Management Plan which shall, among other things require that:

The Employee shall take such action as is necessary to be removed from a relationship with the private firm or business entity which could influence the decision-making process of the private firm or business entity; and/or

The University shall establish a procedure to remove any opportunity for the Employee to influence the entering into the contract by the University or the manner in which the contract is performed by the University.

If the financial interest of the Employee is as an owner or employee in a private firm or business entity that is proposing to license or otherwise acquire University-owned intellectual property, then the University may enter into such transaction upon the approval of the applicable campus technology transfer office

and Chief Research Officer, and upon the adoption of a Conflict of Interest Management Plan.

2. **Overlapping Business Activities.** Before an Employee enters into or has a business activity which relates to, overlaps with, or competes with the University's teaching, research, service, or economic development missions, the Employee shall make a full disclosure, in writing. The chairperson/supervisor and dean/director/supervisor must approve or disapprove in writing the proposed activity and such activity must be Managed.
3. **Full-time Employment - Faculty and Exempt Personnel.** Full-time faculty and full-time exempt personnel may not be concurrently employed full-time with another employer.
4. **Teaching.** An Employee of the University who teaches either credit or non-credit courses not connected with the University may have a conflict of interest. To avoid conflicts of interest an Employee must disclose the proposed teaching activity and secure written approval in advance. The chairperson/supervisor and dean/director/supervisor must approve or disapprove in writing the proposed activity. Approval for such teaching shall be granted unless the proposed teaching is not in the best interests of the University. In reaching the decision, the chairperson/supervisor and dean/director or Provost on campuses having no schools or colleges should consider all relevant matters including such concerns as duplication of University courses or programs and accreditation standards.
5. **Faculty-Authored Textbooks and Other Educational Materials.** Textbooks, tapes, software and other materials authored by the course instructor may be assigned to be purchased by students for a course taught by the author if the royalties arising from the purchase of the assigned materials are returned to the University, another educational institution, a charitable organization, or a not-for-profit foundation. Any proceeds from other University uses of such materials, such as purchase by the library, shall be the property of the author. Course instructors or any other Employee responsible for selecting, ordering, assigning course materials cannot accept Gifts, development grants, or other compensation from any company or organization for the adoption of course textbooks, software or other educational material.
6. **Consultation.** Consultation is a significant means of professional improvement as well as a form of community service. However, consultation may in some instances also constitute a business interest requiring disclosure and approval. The chairperson/supervisor and dean/director/supervisor must approve or disapprove in writing the proposed activity. It is the policy of the University generally to permit consulting activities of Employees which:
  - a. are related to the professional interest and development of the Employee,
  - b. do not interfere with regular duties,
  - c. do not utilize University materials, facilities, confidential or proprietary information, intellectual property, or resources except as provided in the University Business Policy Manual, or any campus-specific policies,

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- d. are in agreement with the American Association of University Professors/American Council on Education (AAUP/ACE) Statement on Conflict of Interest and with the requirements of accreditation for the particular school or unit in question,
- e. do not compete with the work of the University,
- f. are not otherwise contrary to the best interests of the University,
- g. do not violate federal or state law, and
- h. any conflicts of interest are Managed.

7. Malign Foreign Talent Recruitment Program. As further defined and provided for in CRR 330.120, no Employee shall participate in a Malign Foreign Talent Recruitment Program

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**F. Responsibilities of Each Campus:**

Each campus shall:

1. Establish a committee to coordinate the solicitation and review of disclosures of Outside Interests from each Employee, including development of campus specific standards and procedures, determine whether a conflict of interest exists, and determine what conditions or restrictions, if any, should be imposed by the campus to Manage such conflict of interest, resolve problems revealed, and enforce sanctions as appropriate, including adoption of a Conflict of Interest Management Plan.
2. Comply with all laws and regulations regarding conflict of interest, including the provision of initial and ongoing financial conflict of interest reports to the Public Health Service (PHS) as required pursuant to 42 C.F.R. Part 50 Subpart F and 45 C.F.R. Part 95.
3. Develop and publish corresponding procedures to support implementation of this policy and any other related laws or regulations regarding conflict of interest. Such procedures shall include, at a minimum, requirements for exempt staff and faculty Employees to submit annual reports disclosing all Outside Interests or verifying the absence of any Outside Interests (except to the extent that a campus may adopt alternative procedures for adjunct faculty as provided in Section 330.015.E).

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**G. Use of University Stationery** -- Official University stationery may not be used in outside business, personal, and other private or political activities of Employees. However, for use in such activities, faculty may have printed at their own expense personal business stationery carrying their academic title, University address and telephone number.

**H. Use of University Logos, Trademarks, and Service Marks** -- It is a violation of University policy to use the name of the University or any of the University's logos, trademarks or service marks in materials intended to endorse or promote Employee Outside Interests or to otherwise enhance private gain without the written permission of the University President or the President's designee.

**I. Appeals** -- Appeals of decisions made under these procedures, except for decisions made by the Chancellor in applying a sanction (CRR 330.015, Section A.3.), should be brought to resolution informally and at the lowest possible administrative level. Should attempts to resolve appeals informally fail, procedures set forth in CRR 370.010 and CRR

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380.010, shall be followed. Appeals of sanctions issued by the Chancellor shall be governed by the procedures set forth in Section 370.010.C.3.b. through 370.010.D.