

University of Illinois Policy on Conflicts of Commitment and Interest

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I. PREAMBLE

Active participation by academic staff members in external activities that enhance their professional skills or constitute public service can be beneficial to the university as well as to the individual. Because external activities can lead to conflicts of commitment or interest with regard to one's university responsibilities, the need exists for a general framework against which the propriety and advisability of non-university activities can be measured and monitored.

This *University of Illinois Policy on Conflicts of Commitment and Interest* ("Policy") provides such a framework and identifies procedures for consultation and advice on conflicts of commitment or interest matters, for resolution of situations in which a conflict may exist, and for approval of exceptions when warranted. The Policy makes every effort to balance the integrity and interests of the University of Illinois with the integrity and interests of individual academic staff members. To that end, the Policy attempts not only to identify and eliminate or manage actual conflicts of commitment or interest but also, whenever possible, to prevent even the appearance of conflicts. The Policy provides for mechanisms to manage conflicts of commitment and interest, and for sanctions should those mechanisms fail.

This Policy implements an Illinois law requiring university faculty members to obtain prior written approval before engaging in non-university income producing activities. It also implements various policies set forth in the *Illinois Procurement Code*, the *University Statutes* and *The General Rules Concerning University Organization and Procedure*. Finally, the Policy accommodates federal regulations designed to protect the objectivity of federally funded research. ~~Relevant excerpts from~~ References to university, State, and federal documents appear in the Appendix.

This policy will be effective upon final approval by the president and the Board of Trustees, and supersedes the prior *University of Illinois Policy on Conflicts of Commitment and Interest*. It is intended to apply prospectively and not negate any decisions, actions, or plans implemented under previous version(s) of this policy.

II. OVERVIEW

- Academic staff must obtain prior written approval to engage in non-university income producing activities (with some exceptions, as defined below). Academic staff must also disclose such activities at least annually or whenever a substantial change in such activities occurs, and when required by granting agencies.

- A conflict of commitment arises when the external activities of an academic staff member are so demanding of time or attention that they interfere with the individual's responsibilities to the university.
- A conflict of interest occurs when the academic staff member is in a position to advance his or her own interests or those of a third party, to the university's detriment.
- The involvement of students or other university employees in non-university income producing activities must be disclosed and may require monitoring.
- The university will conduct a coordinated annual process for the disclosure and approval of activities or relationships which may present conflicts of commitment or interest.
- The unit executive officer (UEO) will work with the academic staff member to identify, evaluate, manage, or eliminate potential conflicts.
- Conflict management may involve either the completion of an annual disclosure and approval process, or the execution of a written, situation-specific management plan.
- Conflict management may be implemented as a condition of authorization of an activity.
- If the UEO determines that the potential conflict cannot be managed, or the academic staff member and the UEO are unable to reach agreement on how to manage the potential conflict, the UEO must deny approval of the outside activities.
- Academic staff members may appeal a denial of approval for an external activity.
- The university may impose sanctions for violations of this Policy.
- Final responsibility for this Policy rests with the president or the president's designee.
- Diligent efforts shall be made to maintain the confidentiality of personal or proprietary information to the extent allowed by law.

III. POLICY

A. Persons Covered

This Policy applies to all paid academic staff members, whether part time or full time employees of the university. The academic staff includes academic professionals, postdoctoral associates, and the faculty ranks of professor, associate professor, assistant professor (and all of the foregoing whose appointments contain such terms as "research," "adjunct," "visiting," or "clinical"), instructor, and lecturer. All covered persons are referred to herein as "academic staff members." For the purpose of this Policy, civil service staff¹, students, and medical residents (unless they are also employed as academic staff members) are not considered academic staff. Although civil service staff, students, and medical residents are not covered by this Policy, they are not exempted from making any required disclosures as required by federal or state laws and regulations or from making situation-specific disclosures as described in Section III.D.3.

B. Definitions

1. A "conflict of commitment" exists when the external activities of an academic staff member are so substantial or demanding of the staff member's time and attention as to interfere with the individual's responsibilities to the unit to which the individual is assigned, to students, or to the university.
2. A "conflict of interest" arises
 - a.) when an academic staff member is in a position to influence either directly or indirectly university business, research, or other decisions in ways that could lead to gain for the staff member, his/her immediate family, or any third party to the detriment of the university's integrity and its missions of teaching, research, economic development, and public service, or
 - b.) when an academic staff member desires to acquire a contract (outside of employment) to provide goods or services to the university.
3. "Immediate Family," for the purposes of this Policy, includes one's spouse or domestic partner, parents, siblings, and children.

¹ As of July 11, 2010, Rule 16.01 of the university's Policy and Rules for Civil Service Staff addresses conflict of interest. The text is available at https://nessie.uihr.uillinois.edu/cf/policies/index.cfm?Item_id=390.

4. The "Unit Executive Officer" (UEO) means the department head/chair or equivalent office of other units. For conflicts involving a unit executive officer, the term refers to the administrator at the next higher level in the normal reporting lines.
5. "Responsible Official" means the individual responsible for overseeing the implementation of this Policy. This is the chief research officer at each of the three campuses or the president's designee for University Administration.
6. "Management plan" refers to a written plan describing the mechanisms by which conflict(s) of interest or commitment may be managed, reduced, or eliminated. Conflicts of interest related to procurement, as described in 2(b) above, are managed ~~by the president's designee as outlined in the applicable procurement codes²~~ in accordance with the Procurement Code and its companion administrative rules. Conflicts of commitment, and conflicts of interest arising as described in 2(a), above, are managed by the UEO, using the procedures described herein.

Management plans must describe the situation, giving rise to the potential conflict, the management mechanisms, and the process by which the activities and the management plan will be monitored.

The nature of the written plan varies according to the nature and extent of the potential conflict. Disclosure of a conflict in the course of the annual disclosure process with concomitant documentation of management mechanisms and monitoring is one method for creating a management plan. When the nature of the external activity is such that it entails involvement in a university employee start-up company or may be perceived to have some impact on the employee's university duties (e.g., sponsored research or research involving human subjects), a situation-specific management plan may be required.

Management plans must consider, at minimum, the following aspects of the situation: the amount of time spent on the non-university activities, the potential involvement of students and/or other university employees in the activities, the potential use of university intellectual property or any other university resources, the relationship of an outside activity to one's university duties or responsibilities, and the potential for the diversion of funding opportunities to an outside entity. Although existing campus policies govern

² ~~The Administrative Code of the Joint Committee on Administrative Rules (JCAR) has sections applying to procurement and can be found at <http://www.ilga.gov/commission/jcar/admincode/044/04400526sections.html>.~~

management of employee family relationships, there may be cases in which the involvement of family members in each other's sponsored research projects requires additional conflict management mechanisms, and therefore a conflict management plan.

Appropriate conflict management mechanisms are a function of the situation; examples of conflict management mechanisms are provided in Section III.B.7.

Appropriate monitoring (of the activities and the management plan) is a function of the situation. Monitoring may include the submission and review of the annual disclosure form. Other forms of monitoring may also be implemented, such as UEO oversight to evaluate the effectiveness of and ensure compliance with the mechanisms specified in a management plan.

7. "Management mechanisms" are measures devised to reduce, manage, or eliminate a potential conflict of interest or commitment. They may include modifying a research plan, implementing an impartial research review mechanism, appointing an ombudsperson or panel to monitor the involvement of students, disclosing significant conflicts in presentations or publications, recusal from promotional or purchasing decisions, divesting financial interests, implementing non-conflicted oversight of university projects and expenditures (including travel), severing relationships that constitute actual or potential conflicts, and applying for a leave of absence or reduction in appointment.
8. The definition of "significant financial interest" may vary. The definition to be used is based on either the federal or state definition³ and depends on whether the Public Health Service (U.S. Department of Health and Human Services; "**PHS**") regulation or the State Procurement Code is most clearly invoked in the situation prompting the disclosure. The level of significance is determined by (as applicable) the dollar amount involved, the extent of ownership, and the degree of fiduciary responsibility held by the academic staff member or his/her family members. The unit requesting disclosure should carefully determine and specify the threshold for disclosure (percentage of equity ownership, dollar amount of financial interest, etc.)

³-As of the effective date of this policy, the applicable Public Health Service (Department of Health and Human Services) regulation is found in 24 CFR 50. This Policy and its procedures comply with federal regulations pertaining to sponsored Research, including the Public Health Service (PHS) Regulations at 42 CFR Part 50, Subpart F, Section 50.601 through Section 50.607 and 45 CFR Part 94, Section 94.1 through 94.6; the National Science Foundation (NSF) Regulations at Federal Register, Volume 60, No. 32, July 11, 1995, pages 35822-35823; and the FDA Regulations at 21 CFR Part 54 regarding the disclosure of reportable financial interests. In the event that at any time this Policy and its procedures are in conflict with applicable regulations, the applicable regulations will apply.

based on the applicable regulations. In the absence of other applicable regulations, ~~the Public Health Service definition will be used~~ **financial interests greater than \$5,000 will be considered significant.** Any form requesting financial disclosure shall specify the threshold for disclosure.

C. Basic Considerations

Conflicts of commitment and interest occur as a result of the type and scope of activities engaged in by the university and its academic staff members. The mere existence of a conflict, real or potential, will not necessarily exclude a particular activity since conflicts can span a wide spectrum, from those that are minor and inconsequential to those that have serious consequences and cannot be permitted. The university and its academic staff members have ethical and legal obligations to conduct themselves and their university activities in accordance with the highest standards of integrity.

Active participation by academic staff members in outside activities that enhance their professional skills, or constitute a public service activity, is encouraged. For example, donation of professional services to outside organizations and participation in professional societies, for reasonable periods of time without substantial allocation of university resources, are viewed positively. However, the university expects academic staff members to accord a full professional commitment to the university during the terms of appointment by meeting university obligations first and foremost.

For reporting and review purposes, conflicts of commitment only occur during the contract period, excluding formal leaves of absence;⁴ conflicts of interest can occur beyond the contract period.

1. Conflict of Commitment

The involvement of academic staff members in external entities, for reasonable periods of time and for personal remuneration, is desirable and encouraged when the activities enhances the professional skills of staff members or constitute a public service and so are of benefit to the university. The time allowable for these activities, as well as for other income producing activities (i.e., those not related to the enhancement of professional skills), will vary among individuals, from discipline to discipline, from one type of activity to another, and will be

⁴ For example, in the case of a contract that requires service over nine months, but is paid over 12 months, conflict of commitment is relevant only during the 9-month service period.

affected by each unit's specific needs to meet administrative, teaching, research, service, and governance functions.

A common convention in higher education, observed at the University of Illinois, is that the devotion of the equivalent of an average of one day per seven-day week for full-time academic staff (40 days for an academic year appointment and 52 days for a calendar year appointment) for such engagements is not usually a conflict of commitment. A "day" is defined as any accumulation of eight hours, regardless of time of day or day of week, including nights and weekends, during the contract period. In the case of part-time academic staff, UEOs should consider their part-time status when deciding whether to approve external activities.

This guideline does not represent an automatic entitlement. Prior written approval of non-university income producing activities, whether less than or exceeding the one day per week guideline, must be obtained from the UEO. The devotion of any time to external activities, even to university--benefiting external activities, must not diminish the academic staff member's commitment or service to the university. When such engagements are approved, academic staff members must arrange the outside obligations, financial interests, and activities so they do not impede or conflict with university duties and responsibilities.

With the exception of the types of activities in Section III.E below, remunerated activities must be reported. Approval shall be granted if no conflict of commitment or interest exists. Unremunerated activities, whether of a charitable, professional, or personal nature, are generally not reported during the annual disclosure process. Academic staff should discuss with their UEO any outside commitment that might interfere with their university responsibilities.

2. Conflict of Interest

The possibility of a conflict of interest can arise in a variety of situations--some obvious, some not so obvious--to which academic staff should be sensitive. Set out below are some specific areas of concern.

Research. The university is dedicated to the acquisition and dissemination of knowledge. The undertaking of research under circumstances that limit dissemination--by publication, by presentation in colloquia, workshops, seminars, and the like--is at odds with this fundamental principle. Limits may be accepted, but only insofar as they are necessary, represent the least restrictive means possible, and are acceptable to the university. Such limits must be consistent with freedom of dissemination. For example, a reasonable time limit may be contractually allowed for the submission of information to research sponsors prior

to publication to ensure the confidentiality of information in preparation for patent protection.

Research agreements with external entities, especially entities with which academic staff members have a financial, managerial, or executive relationship, are of special concern. The terms and manner of executing such agreements must maintain basic academic values and promote the acquisition and dissemination of knowledge. Likewise, the educational experience of the university's students and postdoctoral fellows should not be diminished or impeded in any way; neither they nor other academic staff members should be diverted from their primary educational objectives (see *Involvement of Students and Staff*, below). Without prior written approval, it is improper for an academic staff member, having such a relationship, to divert to external entities or other institutions opportunities for research support that could have been obtained on behalf of the university.

If the university carries out federally funded research under an agreement with a third party, the agreement must establish that either the third party's or the university's conflicts policy will apply to the conduct of the third party's investigators and, if the former, that the third party's policy complies with the relevant federal regulations. The agreement must also prescribe when the third party must report all identified financial conflicts of interest to the university.

Non-University Income Producing Activities. As noted above, some non-university income producing activities such as consulting may contribute to an individual's professional growth and, as such, may be encouraged when they are of benefit to the university. Non-university income producing activities which do not generate specific benefits to the university may also be allowed.

Staff members engaging in non-university income producing activities are not acting on behalf of the university. In conducting these activities, they may use their university affiliation for identification purposes only and may not use official university stationery, unless the activity is exempt from reporting as noted in Section III.E.

University facilities may be used in connection with such activities only in accordance with the relevant facility use policy, including that providing for the university's rights in intellectual property created as a result of non-university activity. University resources may not be used for non-university activities without permission from the university.⁵ Use is prohibited unless explicitly approved.

⁵ There are principles embedded in the *General Rules, Statutes*, etc., that may also apply.

Business Relationships. Careful scrutiny is required when the academic staff member's financial interests, or the assumption of outside executive or administrative responsibilities, put the staff member in a position to influence university research or business decisions in ways that could lead to the staff member's direct or indirect personal financial gain or give improper advantage to third parties.

Procurement-Related Conflicts. The purchase of goods or services by the university from an entity owned by an employee of the university is defined as a conflict of interest that will normally be denied unless the transaction is essential for university operations and is approved by the president of the university (or designee). The purchase of goods or services by the university from an entity owned by members of the employee's immediate family is also defined as a conflict of interest and must be approved, in advance, as beneficial to university operations by the president of the university (or designee). Other conditions related to financial interests of employees and their families in entities that may seek to do business with the university may also create a conflict of interest that might not be allowable under the Illinois Procurement Code.

Intellectual Property. In order to protect the university's intellectual property rights and comply with federal guidelines and the university's commitment to technology transfer, an academic staff member must make university obligations known to external entities with which business is contracted and may provide them with a statement of relevant university policies governing inventions and discoveries. University intellectual property may not be licensed or assigned to, or used by, other entities without prior approval through established university procedures.

Involvement of Students and Staff. It may be beneficial to university students or employees to be involved in the outside professional activities of an academic staff member. However, such involvement must be disclosed by the academic staff member and must be approved in writing by the UEO in advance. The UEO shall implement mechanisms to prevent the exploitation of others and any unreasonable interference with others' university duties and responsibilities. This may include providing independent advisory oversight by faculty members not involved in the particular outside activity for students as they engage in course, thesis, or research work. Care must also be taken when an academic staff member could be prejudiced in judging other staff in issues of rank, compensation, and tenure as a result of mutual involvement in outside activities. The UEO may need to implement appropriate monitoring mechanisms.

Students and staff involved in these outside professional activities shall be made fully aware of the circumstances, university policy regarding these activities, and the management mechanisms implemented by the academic staff member and the UEO.

3. Faculty Conflicts of Commitment and Interest in Teaching

Explicit clarification of the potential conflicts of commitment and interest regarding outside teaching by faculty is necessary, especially in view of distance learning technologies. Teaching is unique and primary among the university's functions of teaching, research, public service, and economic development and, consequently, it warrants particular mention among the obligations of the university's faculty. Defining principles and policies for conflict of commitment and interest for faculty teaching is necessary given the availability of the Internet and other technologies to permit asynchronous instruction, which may assist or replace traditional classroom teaching.

Outside teaching by faculty, other than that assigned or approved by the department, likely represents a conflict of commitment. Moreover, outside teaching by faculty, including any form of instruction, whether in the classroom or via distance learning offered by other entities (including for-profit organizations), could be a conflict of interest if it competes with courses offered by the university. With the exception of occasional guest lecturers or seminars, teaching for another entity represents a potential conflict of commitment and interest, unless such teaching is part of a faculty member's teaching load. Such teaching is prohibited without prior written approval of the UEO.

D. Specific Responsibilities

~~This section provides an overview of responsibilities under the Policy. More detail is provided in Section IV.~~

1. Overall Responsibility

The president or the president's designee has overall responsibility for all matters concerning conflicts of commitment or interest.

2. Responsibility for Information and Training

The President will designate to the Vice President for Research the responsibility to identify a campus official that will be responsible for

annually informing academic staff of this policy and implementing any associated training required by law. Academic staff members are responsible for complying with this policy and all training requirements. Training requirements may be imposed on other staff as required by federal and state law.

3. Duty of Cooperation

This Policy requires the exercise of judgment by members of the academic staff and officers of administration on what requires reporting, when approval may be granted, and when additional information should be sought. Thus, there may be instances of application of this policy initiated by the university administration in the absence of self-reporting or in response to a report from a third party (see Section IV.A.2). Academic staff members must cooperate fully with the university, including providing information and responding to questions, to ensure that the institution can resolve and/or manage potential and actual conflicts of commitment and interest in conformity with the university's policies and applicable regulations.

4. **Disclosure,** Reporting, Review, and Approval

- a. Academic staff members are required to obtain prior written approval for all non-university income producing activities; to disclose, **within the time limits required by law,** ~~promptly~~ relationships which may give rise to a potential conflict of interest; and to respond fully and in a timely manner to inquiries from the UEO in connection with those requests and disclosures.
- b. UEOs are responsible for evaluating all potential conflict situations reported or known to them (including all requests for approval of non-university income producing activities) before acting to approve or disapprove outside activities, and must notify employees of their decisions.
- c. The individual campuses and the University Administration (UA) will each conduct a coordinated annual disclosure and approval process for conflicts of commitment and interest. ~~These processes will be overseen and implemented by the responsible officials.~~ The president's annual disclosure will be reviewed and approved by the chair of the Governance, Personnel, and Ethics Committee of the Board of Trustees and by the chair of the Board of Trustees.

- d. During the annual disclosure process, when academic staff members hold paid appointments in multiple units, the UEO of each unit must review and approve employee disclosures and requests for prior approval of external activities. The UEO of the employee's home unit takes the lead in this process. When a second level of review is required, it follows the regular reporting line based on the home unit.
- e. In matters of conflict of commitment or interest, the responsible official on each campus will be advised by a Conflict Review Committee. This committee will consist of at least three academic staff members appointed after consultation with the executive committee of the respective Senate. When appropriate for conflict issues involving UA staff, the president's designee will be advised by a UA Conflict Review Committee, composed of campus experts where relevant and UA representatives.
- f. Units may implement additional disclosure processes as required (e.g., those imposed by funding agencies, accrediting bodies, or federal/state codes or regulations). Disclosures of potential conflicts of commitment or interest are subject to review and approval by the UEO of the home unit of the individual making the disclosure. Each such request for disclosure must specify the threshold for "significance" as noted in III.B.5, the required levels of review and approval, how compliance with the plan will be monitored, and additional routing.
- g. When a potential or actual conflict is identified, and a decision is made to allow the activity to proceed, the UEO will work with the academic staff member to develop an appropriate management plan, if necessary, as described in Sections III.B and IV.C.

h. If a conflict of interest was not disclosed, reviewed or managed in a timely manner, or if an employee failed to comply with a conflict management plan, the university will complete a retrospective review, mitigation report or other procedures required by law.

- i.** All parties to the evaluation, management, and approval of conflicts are to make diligent efforts to maintain the confidentiality of personal or proprietary information to the extent allowed by law.
- i.** All communications with governmental funding agencies relative to conflicts involving individual academic staff members will be made by the responsible official.

- k.** When required by a granting agency, the responsible official will report a conflict and its management to that agency. The granting agency will have access to relevant documents as part of an investigation or audit.
- l.** Granting agencies may require public disclosure of conflicts of interest.
- m.** The responsible official will ensure that any ~~required conflict of interest requirements for~~ reporting **of significant financial interests or conflicts of interest** and ~~training requirements~~ imposed by granting agencies are met.
- n.** **When required by law, travel related to institutional responsibilities and paid for by third parties must be disclosed as a significant financial interest. Disclosure is not required for travel reimbursed or paid by federal, state or local government agencies, institutions of higher education⁶ or their affiliated research institutes, academic teaching hospitals or academic medical centers. The disclosure must include, at a minimum, the purpose of the trip, the sponsor/organizer, destination, duration and monetary value.**

E. Examples of Allowable Income Producing Activities Generally Not Requiring Prior Approval

The following are examples of activities that are not normally considered conflicts of interest. They are exempt from ~~reporting requirements~~ **disclosure**, unless they are so extensive in time and effort that they constitute a potential conflict of commitment. Though these activities do not require disclosure **under this Policy**, the State Officials and Employees Ethics Act ~~does~~ restricts the acceptance of honoraria from prohibited sources, **and federal or state agencies may impose additional disclosure requirements**. For further information, please consult with the University Ethics Office.

1. Preparing, publishing, or presenting scholarly or creative works, including books, articles, and software, even if honoraria, stipends, or royalties⁷ may be provided.

⁶ As defined at 20 U.S.C. 1001(a).

⁷ Royalties received from an entity other than the University of Illinois are subject to disclosure as required by federal regulations.

2. Participating at professional conferences for the purpose of making scholarly presentations, conducting seminars or workshops, even if paid an honorarium⁸.
3. Serving as a special reviewer or on a review panel for academic or governmental organizations, even if paid an honorarium.
4. Serving as a reviewer or editor for a scholarly journal⁹, even if financial consideration is provided.
5. Participating in a clinical practice plan approved by the University of Illinois Board of Trustees.
6. Receiving royalties under the university's royalty distribution policies while currently employed or otherwise appointed by the university.
7. Earning income from passive investments such as interest or dividends from banks, mutual funds, or stocks and bonds.

F. Examples of Potential or Actual Conflicts of Commitment or Interest Requiring Prior Approval

The following activities represent examples of potential or actual conflicts of commitment or interest. The list is not inclusive and is intended to provide guidance. All examples are assumed to include both for-profit and not-for-profit entities.

1. Using university resources to conduct research that is sponsored by an entity in which the academic staff member or his/her immediate family member has a significant financial interest.
2. Serving in an executive or managerial capacity or holding significant financial interests in an entity doing business with the university.
3. Serving in an executive or managerial capacity or holding significant financial interests in an entity in one's field of research.

⁸ If sponsored by government agencies, institutes of higher education as defined at 20 U.S.C. 1001(a), or their affiliated research institutes, academic teaching hospitals or academic medical centers.

⁹ If published by institute of higher education as defined at 20 U.S.C. 1001(a),

4. Serving on the board of directors or a major advisory committee of an entity that sponsors the academic staff member's research or provides gift funds for the use of the academic staff member or his/her department.
5. Conducting consulting or other non-university income producing activities involving university students or other university staff.
6. Utilizing university students or employees in the staff member's university activities supported by gift funds from an entity in which the academic staff member has a significant financial interest.
7. Utilizing university students or employees in the staff member's university research sponsored by an entity in which the academic staff member has a significant financial interest.
8. Conducting testing or clinical trials of products, devices, or services owned or controlled by an entity in which the academic staff member or a member of his/her immediate family has a significant financial interest.
9. Diverting research opportunities from the university to any external entity, (e.g., another academic institution, non-profit organization, federal laboratory, business, or consulting entity in which the staff member or a member of his/her immediate family has a significant financial interest, managerial, or executive role).
10. Owning an entity from which the university may seek to procure goods or services.
11. Influencing the university's decision to procure goods or services from an entity owned by one's immediate family member.
12. Submitting grant proposals or making sub award arrangements involving the purchase of goods or services from an entity in which an academic staff member or a member of his/her immediate family has a significant financial interest.
13. While acting in the context of his/her university duties, making professional referrals to an entity in which an academic staff member or a member of his/her immediate family has a significant financial interest.
14. Spending more than one day per seven-day-week (as defined in Section III.C.1), averaged over the contract period, on non-university income producing activities.

15. Other examples of activities for which prior approval is required include, but are not limited to: ownership and/or management of rental property, working at a retail entity, paid coaching, and providing or directing paid professional entertainment services.

IV. PROCEDURES

This section addresses the disclosure, review, and approval of non-university income producing activities. It discusses conflict management and provides a process for appeal when requests for approval of activities are denied.

A. Disclosure of Non-University Activities

Except for activities specified in Section III.E, academic staff members are required to obtain prior written approval before engaging in non-university income producing activities.

Academic staff members must disclose external relationships that constitute actual or potential conflicts of interest, as well as all non-university income producing activities. These include but are not limited to all activities described in Section III.F as well as any other relationships, commitments, or activities on the part of academic staff members or their immediate family that might present or appear to present a conflict of commitment or interest with regard to their university appointment. These relationships may be of financial, fiduciary, or uncompensated nature, whether the external entity involved is for-profit or not-for-profit.

1. Annual Disclosure

Academic staff members must annually complete a retrospective and prospective disclosure and request for approval of such activities. An initial prospective disclosure and request for approval will be completed during the new hire process. Throughout the year, additional disclosures and requests for prior approval are necessary whenever a change in such activities is proposed or when required by granting agencies.

2. Situation-Specific Disclosure

Academic staff members must also disclose non-university income producing activities in situation-specific disclosure processes that may be implemented by units to ensure timely disclosure and management of potential conflicts of interest as required by funding agencies, accrediting bodies, or federal/state codes or regulations.

3. Reports from Third Parties

Individuals who question whether an employee's outside activity has been appropriately disclosed and managed should bring their concerns to that individual's UEO. The UEO will handle the situation as a potentially undisclosed activity, as in Section IV.B.1.

B. Review and Approval

1. First Level of Review

The UEO reviews requests for approval of non-university income producing activities and other (i.e., situation-specific) conflict of interest disclosures, evaluates the nature and extent of actual or potential conflicts, and works with academic staff members to manage or eliminate such conflicts. Further, a UEO may request additional information when he/she believes that a conflict of commitment or interest may exist or that an external income producing activity has not been disclosed as required.

As a state institution, the university is entitled to obtain sufficient information to make informed decisions under this policy. Accordingly, it may be appropriate for the UEO to inquire into a number of factors substantially and directly relating to the application of this Policy. These may include details about the specific activities proposed, as well as the extent of an academic staff member's time commitment, income derived, financial interests, or fiduciary responsibilities.

The UEO must notify the employee of approval or denial, in writing, within a reasonable period of time. Ordinarily, the UEO must respond within 14 calendar days of receiving either a request for approval of an external activity, or information provided in response to inquiries regarding the nature and extent of the proposed external activities. If 14 days pass without the UEO notifying the employee of approval or denial, the academic staff member has the right to take the request to the next administrative level, which will serve as the first level of review. The employee may choose not to take the matter to the next level, and if so, any delay in being told of the outcome by the UEO will not be considered a procedural violation.

If the activity is denied by the UEO (including when mutually agreeable management mechanisms cannot be identified), an employee may appeal the denial to the second level of review as described in Section IV.D.

2. Routine Second Level of Review and Approval

Second level of review follows regular reporting channels (e.g., the dean or the next administrative level if there is no dean) based on the employee's home unit. As a routine component of the review process, this second level of review does not constitute an appeal. The appeals process is described in Section IV.D.

A second level of review is required for any activities presenting a potential conflict of commitment or interest (in accordance with the guidance presented in Sections III.E and III.F) and when the UEO denies a request for permission to engage in an external activity.

Management plans for university employee start-up companies require a second level of review. Other situation-specific disclosure processes or management plans may specify a second level of review.

Additional information may be requested prior to approval or denial at the second level of review. The second level may override decisions by the UEO.

If the UEO has denied permission, denial of approval at the second level of review is final, subject only to an appeal on procedural grounds as described in Section IV.D.

If the UEO has approved the activity but the second level of review has overridden the UEO and denied the request, the staff member may appeal to the next administrative level, as described in Section IV.D.2.

3. Further Review and Routing

During the annual disclosure process, documents requiring a second level of review are forwarded to the responsible official for information once the second level of review is completed. Management plans for university employee start-up company activities require approval by the responsible official. Situation-specific disclosure processes implemented by units must specify what, if any, additional review or routing is required and may require approval by the responsible official.

4. Rescinding Approval

At any time, as the UEO monitors the employee's external activities and conflict management, the UEO may perceive that the management mechanisms are no longer effective. In such cases, the UEO may suspend approval of the external activity and work with the employee to evaluate the situation and determine whether and how it can be managed. If a mutually agreeable management plan cannot be developed, then approval of the activity must be rescinded. Academic staff may appeal a withdrawal of approval as described in Section IV.D.

C. Managing Potential Conflicts

It is incumbent upon the academic staff member and the UEO to manage or eliminate real or potential conflicts. At any time during this process the UEO or academic staff member may seek the advice of the dean, director, responsible official, or other individual responsible for the process which generated the disclosure.

Any person involved in negotiating or administering plans for conflict management has an absolute duty to disclose in writing to the next administrative level any actual or potential conflict that he/she has in the matter and may not participate further in the process. The responsibility for conflict management then passes to the next administrative level.

Conflict management mechanisms must be documented in writing and agreed to and acknowledged by the UEO and academic staff member, whether as part of an annual disclosure process or in the course of a situation-specific disclosure. This documentation is generally referred to as a "management plan." This documentation shall be appended to the disclosure of the potential conflict. The disclosure and documentation shall be routed to additional administrative levels for review and approval as appropriate (e.g., dean, director, followed by routing to the responsible official). The UEO is responsible for monitoring the implementation of management plans to ensure compliance with and evaluate the effectiveness of the conflict management mechanisms.

If voluntary agreement on how to manage or eliminate the conflict is not reached, the staff member's request for approval of an outside activity cannot be approved. The UEO must inform the academic staff member of a denial of approval within a reasonable amount of time, ordinarily 14 calendar days. The UEO shall append documentation of denial of approval to the academic staff member's disclosure and forward it to the second level of review.

When an academic staff member has paid percentage appointments in more than one unit, both UEOs shall review requests for approval of external activities, evaluate potential conflicts, and manage or eliminate them. The UEO of the staff member's home unit shall take the lead in this process.

In the event that the UEOs do not agree, the request for approval shall be considered by the responsible official, whose decision will be final, subject only to appeal on procedural grounds.

D. Appeals

1. Appealing Denials by the UEO

When approval of an external activity is denied by the UEO, an academic staff member may appeal the denial to the second level of review within 14 calendar days after the academic staff member receives written notice of the denial. Appeals of the UEO's decision to deny the activity must be in writing and must present the employee's rationale for approval of the activity. Documentation or evidence supporting the appeal may be attached.

The second level of review will evaluate the information provided, may request additional information from the employee or the UEO, and may seek advice from the responsible official or other individual responsible for the process which generated the disclosure. Ordinarily, the second level of review must respond to an appeal within 14 calendar days of receiving either the appeal or information provided in response to requests for additional information. The outcome of the appeal is the written approval or denial of the request to engage in the external activities. If 14 days pass without the second level of review notifying the employee of the outcome of the appeal, the academic staff member has the right to take the appeal to the next administrative level, which will function as the "second level of review" and rule on the appeal. The employee may choose not to take the appeal to the next level, and if so, any delay in being told of the outcome by the second level of review will not be considered a procedural violation.

Denial of approval of an external activity following an appeal to the second level of review is final, absent an appeal to the president's designee on procedural grounds.

2. Appealing Denials Initiated by the Second Level of Review

When UEO approval of an external activity is over-ridden by the second level of review (see IV.B.2), an academic staff member may appeal the denial to the responsible official within 14 calendar days after the academic staff member receives written notice of the denial. Such appeals must be in writing and must present the employee's rationale for approval of the activity. Documentation or evidence supporting the appeal may be attached.

Denial of approval of an external activity by the responsible official is final, absent an appeal to the president's designee on procedural grounds.

3. Final Appeals Based on Procedural Grounds

Appeals on procedural grounds must be made in writing and filed with the president's designee within 14 calendar days after the academic staff member receives written notice of the denial. The appeal must include a description of the procedures which were violated and may include documentation or evidence supporting the claim of procedural violation.

The president's designee shall, within 30 calendar days, either affirm or vacate the decision to deny approval of the activity, and notify the employee and others concerned. This decision shall be final. In making a decision on an appeal, the president's designee will consider the university's obligations and interests as stated in this policy and whether fundamental fairness was afforded to the academic staff member. The president's designee will also consult, if possible, with the chair of the appropriate campus-wide advisory committee which represents the interests of the academic staff member prior to issuing a decision.

E. Sanctions for Violation of This Policy

Sanctions are warranted for failure to report potential conflicts or to abide by a management plan. The university has the right to impose sanctions consistent with the rights of academic staff members under the university *Statutes* and other applicable policies and practices. Severity of sanctions depends on the extent of the violations of the Policy. Inadvertent, unintentional, and minor breaches require lesser sanctions, whereas knowing, deliberate, and major violations demand the severest sanctions. Nothing in this Policy is intended to diminish or replace the procedural rights of academic staff, including the procedures for revocation of tenure contained in the *Statutes*.

F. Periodic Review

To ensure that this policy effectively considers and responds to the changing environment, it will be reviewed (and revised if needed) every five years by the president's designee. Revisions will be subject to approval by the faculty senates of each campus.

G. Interim Administrative Action

At any time after a potential conflict of interest or commitment has been identified and before final disposition of the case, the UEO, with the approval of the second level of review, may take interim administrative action as required to comply with the law, to protect the objectivity of research, to protect the interests of students and colleagues, to preserve evidence, or to protect resources. Any interim action should be devised and taken so as to create minimal interference with the university activities of the individuals involved, and in accord with the university *Statutes*.

H. Exceptions

Any exceptions to the procedures described above shall be made only for good cause and with the approval of the vice president/chancellor of the respective campus or the president's designee for members of the university administration.

V. ~~APPENDIX: DOCUMENTS, LAWS, AND REGULATIONS PROVIDING A FOUNDATION FOR THIS POLICY~~

This Appendix may be updated as necessary by the president or the president's designee to accurately reflect citations and changes in legal authorities, policies and guidelines.

A. Authorities for Policy

The following authorities form the basis of this policy.

Federal Regulations, Policy and Guidance:

HHS – Promoting Objectivity in Research, 42 CFR, chapter I, subchapter D, part 50 and Responsible Prospective Contractors, 45 CFR, subtitle A, subchapter A, part 94; Final Rule at 76 Fed. Reg. 53256 (August 25, 2011)

NSF – Investigator Financial Disclosure Policy, 59 Fed. Reg. 33308 (June 28, 1994); Notice of technical changes to investigator financial disclosure policy, 60 Fed. Reg. 35820 (July 11, 1995)

Illinois Law:

University Faculty Research and Consulting Act, 110 Ill. Comp. Stat. 100 Illinois Procurement Code, 30 Ill. Comp. Stat. 500/50-13, 50-15, 50-30, 50-35, 50-39

State Officials and Employees Ethics Act, 5 Ill. Comp. Stat. 430

University Policy and Guidance:

Statutes, Art. IX, §§ 2 and 5

General Rules Concerning University Organization and Procedure, Art. III, §7(g) and (i)

Guidelines for Management of Potential Conflicts of Interest with Health Care Industry (June 6, 2010)

OBFS Business and Financial Policies and Procedures, §§9.2, 9.8

Policy and Rules for Civil Service Staff, Policy 16.01 – Conflict of Interest

Academic Staff Handbook, Chapter 5 – Research and Teaching

There are a number of current university policies, State laws, and federal regulations that provide a foundation for, this Policy including, but not limited to:

University Documents

"No person employed by the University shall have any interests incompatible with that person's obligations to the University" (Article IX, Section 5b. of the *Statutes*);

"The responsibilities to the University of full-time members of the academic staff are fulfilled by the performance appropriate to rank and terms of appointment of teaching, scholarly research, continuing education and public service, and committee work and special assignments. Such staff members may carry on some professional or business activities of an income-producing character so long as such activities are compatible and not in conflict with University interests. The head of the department of which the employee is a member should know and approve of these activities outside the University" (Article IX, Section 5d. of the *Statutes*);

"Procurement contracts involving expenditures of university funds are governed by *Procurement Rules of the Chief Procurement Officer for Public Institutions of*

~~Higher Education as adopted and amended from time to time by the Board of Trustees. Other university contracts may be awarded to any business entity, including those in which a university officer or employee (or members of their immediate families) serve as major officers or primary employees thereof, or hold a significant equity interest therein, if such contract is deemed in the best interests of the University and has the approval of the president or the president's designee. Documentation of such approval shall be filed with the contract" (Article II, Section 4(d) of the *General Rules*); and~~

~~"University employees engaged in external consulting work or business are responsible for ensuring that agreements emanating from such work are not in conflict with University policy, with the University's contractual commitments or with University policies regarding University-owned intellectual property. Such employees should make their non-University obligations known to the appropriate campus officer and should provide other parties to such agreements with a statement of University policies regarding ownership of intellectual property and related rights." (Article III, Section 7(i) of the *General Rules*).~~

~~Each campus has its own policies governing the use of phones, computers, and other resources.~~

State Law

~~110 *Illinois Compiled Statutes (ILCS) 100/1*~~

~~No full time member of the faculty of any State-supported institution of higher learning may undertake, contract for or accept anything of value in return for research or consulting services for any person other than that institution on whose faculty he serves unless (a) he has the prior written approval of the president of that institution, or a designee of such president, to perform the outside research or consulting services, such request to contain an estimate of the amount of time which will be involved, and (b) he submits to the president of that institution or such designee, annually, a statement of the amount of actual time he has spent on such outside research or consulting services.~~

Federal Regulations

~~Current regulations include those from the National Science Foundation and the Department of Health and Human Services.~~

~~*Federal Register*, Vol. 59, No. 123/Tuesday, June 28, 1994 (pages 33308-33312) and *Federal Register*, Vol. 60, No. 132, Tuesday, July 11, 1995 (pages 35820-35823).~~

The National Science Foundation (NSF) Investigator Financial Disclosure Policy has the following primary features:

- A requirement that any NSF grantee employing more than 50 persons maintain "an appropriate written and enforced policy on conflict of interests."
- Minimum requirements for what must be in an institution's policy. These include (a) limited and targeted financial disclosure, (b) designation of a person(s) to review the disclosures and resolve actual or potential problems revealed, (c) enforcement mechanisms, and (d) arrangements for informing NSF of conflicts issues that are not resolved to the satisfaction of the institution.

Federal Register, Vol. 60, No. 132 Tuesday, July 11, 1995 (pages 35810-35819)

The Public Health Service (PHS) issued rules requiring Institutions that apply for research funding from the PHS to assume responsibility for ensuring that the financial interests of the employees of the Institution do not compromise the objectivity with which such research is designed, conducted, or reported.

Under the PHS rules, investigators are required to disclose to an official(s) designated by the Institution a listing of Significant Financial Interests. The institutional official(s) will review these disclosures in accordance with an administrative process to be established by each institution. Following this review, the institutional official(s) will determine the acceptability of the reported financial interests and act to protect PHS-funded research from any bias that is reasonably expected to arise from those interests.

"Investigator" means the principal investigator and any other person who is responsible for the design, conduct, or reporting of a research project funded by PHS, or proposed for such funding. For purposes of the requirements of this part relating to financial interests, "investigator" includes the investigator's spouse and dependent children.

On May 21, 2010 HHS proposed changes to its existing regulations to strengthen accountability and transparency of current financial conflict of interest rules at the government, institutional, and investigator level. See <http://grants.nih.gov/grants/policy/coi/index.htm> for details of the proposed changes as well as information on current policy.

Some Links to Relevant Federal Research Regulations

- ~~Frequently asked questions Concerning the Department of Health and Human Services Objectivity in Research Regulations and the National Science Foundation Investigator Financial Disclosure Policy (July 29, 2009). <http://grants.nih.gov/grants/policy/coifaq.htm>~~
- ~~"Objectivity in Research," NIH Guide (PHS, July 14, 1995). http://grants.nih.gov/grants/guide/notice_files/not95-179.html~~
- ~~NSF "Investigator Financial Disclosure Policy," Federal Register (June 28, 1995). <http://www.nsf.gov/pubs/stis1996/iin117/iin117.txt?org=NSF>~~

Federal Procurement Requirements Relating to Conflicts of Interest

Each federal agency has administrative requirements for recipients of federal grants and contracts which include uniform standards for procurement transactions and the award and administration of contracts. In general, these requirements include the following:

Codes of Conduct

The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

Competition

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interests as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made

~~to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality, and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so.~~

~~Links to Federal Procurement Standards~~

~~Below are links to the full federal Procurement Standards from the CFR for each agency, as of the effective date of this policy.~~

~~HHS: <http://law.justia.com/us/cfr/title45/45-1.0.1.1.34.3.html>~~

~~HUD: http://law.justia.com/us/cfr/title24/24cfr84_main_02.html~~

~~Agriculture: http://law.justia.com/us/cfr/title07/7cfr3019_main_02.html~~

~~Transportation: <http://law.justia.com/us/cfr/title49/49-1.0.1.1.13.html#49:1.0.1.1.13.3.13>~~

~~EPA: http://law.justia.com/us/cfr/title40/40cfr30_main_02.html~~

~~Education: <http://law.justia.com/us/cfr/title34/34-1.1.1.1.20.html#34:1.1.1.1.20.3.14>~~