

CONFLICT OF INTEREST & COMMITMENT POLICY

UNIVERSITY OF ARIZONA

**adopted by the Faculty Senate
November 2, 1998**

TABLE OF CONTENTS

I.	Introduction	1
II.	Conflict of Interest: Defined	1
III.	Conflict of Commitment: Defined	3
IV.	Definitions	3
V.	Reporting	6
VI.	Procedures	7
	A. Types of Transactions	
	B. Disclosure Routing	
	C. Review Process	
	D. Consulting and Outside Employment: Full-Time Employees	
	E. Consulting and Outside Employment: Part-Time Employees	
	F. Sponsored Research: Compliance by Consultants	
VII.	Sanctions	10

CONFLICT OF INTEREST AND COMMITMENT POLICY

I. INTRODUCTION

Employees of the University must be aware that outside obligations, financial interests or other employment may result in a conflict of interest or commitment and could therefore affect the objectivity of employees' decisions and the effectiveness of their performance. It is the purpose of this Policy to set forth the principles for identifying potential conflicts and the procedures for reviewing and addressing conflicts that occur. This Policy covers all University employees.

Nothing in this Policy restricts faculty members from choosing the subject matter of their research, scholarly work or other activities, subject to the budgetary and programmatic constraints of the unit and the University in any given year. Similarly, this Policy is not intended to limit the types of external activities or business transactions of University employees as long as those activities do not present conflicts of interest and commitment.

II. CONFLICT OF INTEREST DEFINED

A. UNIVERSITY POLICY

A conflict of interest exists when an employee is in a position to influence any University business transaction, research activity or other decisions in ways that could lead to any manner or form of personal gain for the employee, or for his/her family members, other than salary from the University, regardless of source.

This Policy incorporates all policies and procedures set forth in the: *Arizona Board of Regents (ABOR) Policy Manual*, *University Handbook for Appointed Personnel (UHAP)*, *Classified Staff Personnel Policy Manual*, Arizona Conflict of Interest statute (ARS § 38-501, et seq.), and all applicable federal laws and regulations. Use of this policy does not preclude the use of any other departmental, unit, University or ABOR policy to address these issues, including but not limited to the grievance procedures involving the Committee on Academic Freedom & Tenure (CAFT), Section 6, UHAP. However, these alternatives cannot be used to avoid compliance with the Policy, by being either too lax or too restrictive.

B. STATE AND FEDERAL LAW

Under the Arizona Conflict of Interest statute, employees must disclose in writing to the University any substantial interest, as defined in this Policy (see Sec IV #18,21), they or their close relatives have in dealing with the University and refrain from voting upon or participating in any decision in which the employee or his/her relative has a substantial interest. Under the statute there are also instances in which employees may need to submit a Disclosure of Substantial Interest form to ABOR.

Federal law and grant regulations require assurances from recipient institutions that their conflict policies are in force, will be utilized and that records as to employee activities are maintained. In reviewing University records, federal agencies may not agree with the decision of the University concerning this matter. Copies of applicable federal policies are available through Sponsored Projects and in the offices of academic units.

III. CONFLICT OF COMMITMENT DEFINED

A conflict of commitment is an activity that interferes with an employee's ability to carry out his/her duties effectively. External employment, or self-employment in an employee's profession or specialty, is permitted where there is not a conflict of interest or commitment. Employees on full-time appointment are compensated for full-time employment and outside or dual employment or other activity, whether compensated or not, that in any way interferes with the performance of an employee's University duties and responsibilities is a conflict of commitment and as such is not permitted.

Conflicts of interest and commitment do not include professional and academic activities such as: site visits, academic panels, promotion and tenure activities, program reviews, recruiting, journal editing, attendance or preparations for conferences or other professional activities. Such activities are considered to be integral to the employee's professional standing and public service commitments and hence are encouraged.

IV. DEFINITIONS

1. **Administrators:** Employees of the University whose Notice of Appointment incorporates the ABOR Conditions of Administrative Service as the conditions of their employment.
2. **Appeal:** A process requesting a re-evaluation of a conflict determination by a panel (under this policy, a panel consisting of the elected Committee on Ethics & Commitment, the Vice President for Research, the Senior Vice President for Business Affairs, and the Provost) subsequent to a decision by the Vice President for Research or the Senior Vice President for Business Affairs, having been delivered to the employee. The determination of this panel may be further appealed to the President, whose decision shall be final.
3. **Appeals Process:** All appeals must be in writing, must include documents related to the case and must be submitted to the parties listed in paragraph 2 above.
4. **Appointed Personnel:** All employees with a Notice of Appointment including administrators, faculty, academic and service professionals and graduate assistants and associates.
5. **Business Transactions:** Covers all business transactions involving the University and/or ABOR for the University, except sponsored research. For forms and procedures, contact the Associate Vice President for Business Affairs.

6. **Classified Staff:** All employees whose positions are classified under the Arizona Universities Personnel System (AUPS) and who are either regular classified staff, part-time classified staff or temporary classified staff.
7. **Committee on Academic Freedom & Tenure (CAFT):** The faculty committee that hears grievances under Section 6 of UHAP. An employee against whom a complaint is made, concerning non-compliance under this policy, may elect to go directly to CAFT to resolve the complaint.
8. **Conflict of Interest and Commitment Disclosure Form (Disclosure Form):** The University form to be completed containing information about an employee's "substantial interest," as defined in this Policy. "Conflicts" as used in the Policy refers to both conflicts of interest and commitment.
9. **Consulting:** External, professional activities including, but not limited to, any activity that: (1) is performed on an individual contractual basis for any individual, firm or agency other than The University of Arizona; (2) is based upon one's professional knowledge, experience and abilities; and (3) is undertaken for personal gain beyond the payment of a nominal honorarium and/or reimbursement for expenses.
10. **Employees:** All paid members of the University community including faculty, administrators, appointed personnel, classified staff and student employees, whether full-time, part-time or contract employees.
11. **Faculty:** Employees who are responsible for and whose performance evaluations are based primarily on the teaching, research and public service goals and objectives of the University.
12. **Financial Data:** Financial data describes the type of information reported on the Disclosure Form for any interests that are not "Remote Interests" under Arizona law. It includes, but is not limited to, anything of monetary value excluding reimbursed expenses. The data required includes, but is not limited to, salary, payment for services, consulting fees, honoraria, stocks, stock options, warrants, patents, copyrights, trade secrets, future rights, in-kind remuneration, gifts, debts or other financial benefit. Disclosures of financial interest may include data on an employee's family and business associates, if the individual(s) is doing business with the University.
13. **Institutional Review Committee (IRC):** The IRC shall review the Disclosure Form, and other matters as set forth in this Policy. The seven members shall be appointed by the President and include: three tenured faculty nominated by the Chairperson of the Faculty and elected by the Faculty Senate (two of whom must have scientific or technical training), one college-level administrator, one appointed personnel who is not faculty, one member of the classified staff, and one person with the appropriate background who is not affiliated with the University. In addition, this group shall have one representative from the Office of Technology Transfer and one representative from the University Attorney's Office to act in an advisory capacity. A majority of the IRC may exclude the University Attorney's Office representative, if they choose, on a particular issue. The presence of any four members, two of whom shall have scientific or technical training, shall constitute a quorum.

14. **Office of the Vice President for Research (OVPR):** The OVPR acts as staff to the IRC and maintains conflicts forms, files, and a database on all potential and actual conflicts, allegations of non-compliance and sanctions, in keeping with federal requirements.
15. **Principal Investigator (PI):** The principal investigator is the individual who has decision-making responsibilities for the design, conduct, evaluation, monitoring, expenditure of funds and reporting of a sponsored research project at the University. PI includes any co-principal investigators.
16. **Provost:** The Provost and Senior Vice President for Academic Affairs as a member of the three-person panel shall consider appeals under this Policy. The Provost may delegate resolution of any matter hereunder if unavailable or unable to review the matter impartially.
17. **Relatives:** Relatives are defined under ABOR Policy 6-704 and ARS §38-502.
18. **Remote Interest:** A remote interest as defined in ARS § 38-502 is any of the following. Under this Policy employees do not have to disclose remote interests.
 - a. Any interest or income less than a monetary value of \$10,000 annually (federal standard applicable to NIH/NSF grantees);
 - b. A nonsalaried officer of a nonprofit corporation;
 - c. Landlord or tenant of a contracting party;
 - d. Attorney of a contracting party;
 - e. Member of a nonprofit cooperative marketing association;
 - f. Ownership of less than 3 percent of the shares of a for-profit corporation from which the dividend income to the employee does not exceed five percent of the employee's total annual income, and other payments from the corporation to the employee do not exceed an additional 5 percent of the employee's annual income (see §ARS 38-502);
 - g. Reimbursement for actual and necessary expenses incurred in the performance of official duties;
 - h. Recipient of public services generally available to the public;
 - i. A public officer or employee of another public agency unless the action of that agency would confer a direct economic benefit or detriment upon the employee or the employee's family;
 - j. Member of a trade, business, occupation, or professional association or class of persons whose interest is no greater than the interest of any other members of that or similar groups (see ARS §38-502);
 - k. Gifts, in cash or in kind, of no more than \$400.00, in any year, from any entity doing business with the University.
19. **Senior Vice President for Business Affairs (SVPBA):** The SVPBA is charged with reviewing allegations of non-compliance for all classified staff under Section VII of this Policy. The SVPBA may delegate resolution of any matter hereunder if unavailable or unable to review the matter impartially.

20. **Sponsored Activities**: Academic, research or educational programs funded by any outside source or entity including: government, for-profit, or not-for-profit entities.
21. **Substantial Interest**: Any pecuniary or proprietary interest, either direct or indirect, other than a remote interest (see ARS §38-502).
22. **University Attorneys' Office (UAO)**: UAO shall advise unit heads and administrators as to implementation and interpretation of this Policy. A member of UAO shall serve in an advisory capacity to the IRC.
23. **University Committee on Ethics and Commitment (UCEC)**: The committee that deals with questions of fraud in research, conflict of commitment, and facilities misuse.
24. **University Handbook for Appointed Personnel (UHAP)**: UHAP contains University policies applicable to faculty and appointed personnel.
25. **Vice President for Research (VPR)**: The VPR is responsible for monitoring all Sponsored Activities under federal and state law and shall make certain decisions under this Policy. The VPR may delegate resolution of any matter hereunder if unavailable or unable to review the matter impartially.

V. REPORTING POTENTIAL OR ACTUAL CONFLICTS

The Disclosure Form must be completed and submitted any time an employee or the employee's relative: (1) is or may be involved in an activity covered in Section VI; (2) has or may have a substantial interest as defined in this Policy; or, (3) is involved in any actual or potential conflict of commitment or interest which involves remunerative, part-time or full-time employment, self-employment, consulting or advising, whether or not done on University premises or during University business hours and even if for a not-for-profit or government entity.

This Policy establishes a process which is self-identifying. However, third parties may report alleged conflicts, in writing, to their supervisor, IRC or OVPR, if an employee fails to do so or do so adequately. Reports by a third party shall be held in confidence by the recipient.

VI. PROCEDURES

- A. There are three types of transactions:
 1. **Business Transactions** involving any contracts not based on a sponsored activity.
 2. **Personnel Transactions** concerning appointment, retention, promotion or compensation of a relative or responsibility for managing or evaluating the work of a relative.

3. **Sponsored Transactions** cover participation by an employee in sponsored activities which includes but is not limited to research, training, testing, clinical trials, patient care or services provided to the University in connection with sponsored activities in the form of: grants, contracts, and gifts from any government agency or unit, for profit, or not-for-profit entity.

B. Disclosures for any of the above transactions will be routed as follows depending upon the employment status of the employee:

1. Classified staff members will submit Disclosure Forms to the Associate Vice President for Business Affairs.
2. Faculty, Appointed Personnel, and students will submit Disclosure Forms to the Associate Vice President for Research.

C. The process by which Conflict of Interest and Conflict of Commitment reviews will take place is as follows:

1. When submitting a Proposal Routing Sheet for Sponsored Activities, the PI shall initial the box stating "This project is in conformance with The University of Arizona Policy on Conflict of Interest and Commitment. If a real or apparent conflict of interest exists, a Conflict of Interest Disclosure Form has been submitted to the Office of the Vice President for Research." Copies of the Policy are available at the Faculty Center, at departmental offices as indicated on the disclosure form, and will be posted on the VPR's web site.
2. When an employee indicates, on the Proposal Routing Sheet, the existence (or potential existence) of conflict of interest and/or commitment, the employee shall complete the Conflict of Interest Disclosure form, place it in a sealed envelope with any supporting documentation, mark it confidential and forward it to the appropriate office.
3. The routing of material for Sponsored Activities will continue according to University and sponsor requirements but if a conflict is found commencement of funded activity will proceed only after the adjustment of the conflict.
4. The OVPR or the OSVPBA shall review all disclosures and forward them to the IRC. If the IRC determines that no conflict exists, it shall notify the employee in writing.
5. If the IRC determines that a conflict does exist, it shall notify the employee in writing and allow the employee to provide it with information and present the matter before a quorum of the IRC. At the employee's request the IRC meeting may be open to the public.

6. If the matter is not resolved using No. 5 above, the IRC shall recommend one or more of the following to the VPR or the SVPBA: the proposal be: (1) directed to be revised in a manner that results in compliance; or (2) granted an exemption by ABOR under ARS 15-1635.01(B); (3) any other resolution which results in compliance with this policy by both the institution and the employee. The recommendations shall be in writing and a copy sent to the employee.
7. The VPR or the SVPBA shall review the recommendations of the IRC and decide on the appropriate course of action, including, but not limited to the options set forth in No. 6 above. The employee may present materials to and meet with the VPR or the SVPBA whose decision shall be in writing with copies sent to the employee and IRC.
8. The employee may appeal the Vice President's decision to the Provost who shall convene a meeting of the appeals panel consisting of the elected Committee on Ethics & Commitment, the Vice President for Research, the Senior Vice President for Business Affairs, and the Provost who will evaluate all of the materials presented and allow the employee a chance to present the case in person and with the assistance of counsel or ombudsperson of the employee's choice. This Panel's review is limited to approving the respective Vice President's decision or referring it back to the respective Vice President for further consideration. After reconsideration by the respective Vice President, the employee may further appeal that decision to the President, whose decision shall be final.

D. CONSULTING and OUTSIDE EMPLOYMENT: FULL-TIME EMPLOYEES

Conflicts of interest and commitment do not include professional and academic activities which are uncompensated (or include only a minimal honorarium), such as: site visits, academic panels, promotion and tenure activities, program reviews, recruiting, journal editing, attendance at or preparations for conferences or other professional activities.

1. All individual instances of consulting or outside employment whose income is likely to exceed the limits defined as Remote Interest (Section IV; #18) must be discussed with the employee's supervisor before engaging in such activity. All such activities must be approved by the employee's supervisor. By November 1st each year, full-time employees shall provide a written summary of these activities to their supervisor. This information must be updated if the facts change during the year.
2. Supervisors shall forward all reports (paragraph 1 above) to the unit head who shall then forward the reports to the dean, director or vice president. Reports from academic units shall also be sent to OVPR for record keeping.
3. If the unit head fails to approve any such activity under this Section, the employee may request that the matter be reviewed by the IRC.
4. If there is evidence to suggest that a conflict may exist, a supervisor shall discuss the issue with the employee in order to seek resolution of the matter.

5. If an employee requests review of a decision on consulting or outside employment, the IRC shall follow the procedures set forth in Article VI, Section C of this Policy.

E. CONSULTING and OUTSIDE EMPLOYMENT: PART-TIME EMPLOYEES

1. Part-time employees are required to discuss with their supervisors outside activities which may result in a conflict of interest or commitment.
2. If there is evidence to suggest that a conflict may exist, a supervisor shall discuss the issue with the employee in order to seek resolution of the matter.
3. If the unit head fails to approve any such activity under this section, the employee may request that the matter be reviewed by the IRC.

F. SPONSORED RESEARCH: COMPLIANCE BY CONSULTANTS

In compliance with federal regulations, the University will ensure that outside parties, whether not-for-profit or for-profit, consulting to or participating in the University's federally funded sponsored activities agree to be bound by this Policy, or similar policies of their own institutions, and not engage in conflicts of interest as defined in the applicable regulations.

It is the responsibility of the employee to provide consultants with copies of this Policy and report their compliance to the funding agencies and the Office of Sponsored Projects Services. The determination as to unacceptable conflicts for outside participants rests with the funding agency.

VII. SANCTIONS FOR NON-COMPLIANCE

A. DEFINITION OF NON-COMPLIANCE

Non-compliance includes failure to: (1) comply with this Policy, (2) report accurately on the Disclosure Form, (3) comply with decisions under the Policy. Non-compliance may result in disciplinary action, up to and including termination from employment.

B. REPORTING OF NON-COMPLIANCE

Any employee may make an allegation of non-compliance to the IRC. All allegations must be in writing and shall be treated as confidential. Allegations must include documentation of non-compliance.

C. PROCEDURES FOR REVIEW OF ALLEGED NON-COMPLIANCE

1. The IRC shall provide the employee subject to the allegation with a copy of the charge. The employee shall have an opportunity to present materials with the aid of counsel at employee's choice and meet with the committee. Proceedings of the IRC are confidential.

2. If the IRC finds no violation, it shall so inform the employee in writing, and provide a copy of the finding to the VPR or SVPBA.
3. If the IRC finds either non-compliance with this Policy or a decision of the VPR or SVPBA, it shall make a written finding and send it to the employee and the VPR or SVPBA.
4. The VPR or the SVPBA shall give the employee an opportunity to present materials and meet with the VPR or SVPBA and then consider the finding of the IRC, determine the proper remedy to correct the situation or begin the process to impose sanctions as set forth in Subsection D below. The VPR or SVPBA shall notify the employee in writing of the decision.
5. An employee may appeal the decision of the VPR or the SVPBA to the Provost. The Provost shall call a meeting with the VPR and SVPBA and the Committee of Ethics and Commitment to re-evaluate the decision of the VPR or SVPBA. After reconsideration by this panel, the employee may appeal that decision to the President, whose decision shall be final.

D. SANCTIONS

1. Both the procedures for imposing sanctions and the sanctions used shall be governed by existing ABOR and University policies and procedures and state law, if applicable. Should the sanction of dismissal be proposed, it sets into motion the protections of a dismissal proceeding.
2. Violations of this Policy relating to participation in sponsored research shall also be reported to the employee's funding agency, if applicable. Any penalties imposed by an external funding agency shall be deemed separate from any imposed by the University or ABOR.

cnfplcfnlrpg(11/2/98)