



## Conflict of Interest & Commitment Policy for Sponsored Research Programs

Effective Date: June 12, 1995

Approval: January 8, 2015;  
University President

Maintenance of Policy: Vice President for Research and Executive Director, Research Institute

**PURPOSE:** This policy promotes objectivity in research and other sponsored activities by defining standards of conduct appropriate for each University employee participating in a sponsored project. The intent is to ensure that sponsored research activities are neither compromised nor appear to be compromised by any other interest of the responsible University employee.

**SCOPE:** This policy applies to all University of Dayton employees who apply for, receive, or who are currently working on a grant, contract, cooperative agreement, subgrant, subcontract, or sub-cooperative agreement which is funded in whole or in part by any external source (federal, state, or private).

### REFERENCE DOCUMENTS:

1. Disclosure Statement
2. Conflict Determination & Resolution
3. Conflict of Interest
4. Financial Conflict of Interest
5. Affirmative Action Policy
6. Equal Employment Opportunity Policy
7. Certification of Procurement Integrity
8. Confidentiality and Security of University Property
9. Business Ethics and Integrity Code for Sponsored Research
10. Employee Grievance Procedure
11. Employment Agreement
12. Environmental Health & Safety/Risk Management
13. Intellectual Property Policy
14. Misconduct in Research and Scholarship Policy
15. Policy on Nepotism
16. Policy on Computing Ethics
17. Nondiscrimination and Anti-Harassment Policy
18. Policy on the Distribution or Sale of Materials and Solicitation of or by Employees
19. Drug-Free Workplace Policy

### POLICY HISTORY:

Approved June 12, 1995 in its original form (Conflict of Interest Policy for Government Funded Programs);

Approved as amended: October 2001;

Approved as amended: October 2013;

Approved as amended: January 8, 2015

### APPLICABLE FEDERAL REGULATIONS:

Federal Acquisition Regulation (FAR) 52-203-13 - Contractor Code of Business Ethics and Conduct (April 2010).

## DEFINITIONS:

- (a) "Employee" refers to any individual who has accepted full- or part-time employment at the University of Dayton and receives compensation for such employment. This includes all faculty and staff positions (including researchers).
- (b) "Investigator" refers to the principal investigator, co-investigator, or any other employee (e.g., technician, post-doctoral research employee, graduate student/assistant) of the University who is responsible, in whole or in part, for the design, conduct, or reporting of externally-funded research or educational activities.
- (c) "Conflict of interest" means an action, omission, or situation which may appear to compromise the objectivity or integrity of an investigator's design, conduct, or reporting of a sponsored research project. A University employee is considered to have a conflict of interest when the employee or any member of the employee's family (1) has an existing or potential financial or other material interest that impairs or appears to impair the employee's independence and objectivity in the discharge of responsibilities to the University, or (2) may receive a financial or other material benefit through inappropriate use of knowledge or information confidential to the University, its sponsors, customers or suppliers. (See Section 2.1 for examples.)
- "Family" is defined as parent, child, stepchild, grandparent, grandchild, brother, half-brother, stepbrother, sister, half-sister, stepsister, uncle, aunt, nephew, niece, first cousin, husband, wife, stepparent, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, daughter-in-law, or any other member of a household.
- (e) "Conflict of Commitment" exists when an employee undertakes external commitments that burden or interfere with the employee's obligations to the University.
- (f) "Significant Financial Interest" is anything of monetary value, including but not limited to salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options, or other ownership interests); and intellectual property rights (e.g., patents, copyrights, and royalties from such rights) from organizations other than the University. The term does not include:
- Salary, royalties or other remuneration from the University;
  - Income from service on advisory committees or review panels for public or nonprofit entities; or
  - Financial interest in business enterprises or entities if the value of such interests does not exceed more than a five percent ownership interest for any one enterprise or entity when aggregated for the employee and/or the employee's family.
- (g) "Supervisor" for employees in an academic department, is the department; For an employee of the Research Institute, the appropriate department head, division head, or group leader is the supervisor.
- (h) "Appeal Officers" for employees in an academic department, is the Dean of the college or school; For an employee of the Research Institute, the Appeal Officer is the Director of the Research Institute.
- (i) "Gratuity" Employees shall not offer or give entertainment, gifts or gratuities to representatives or employees of sponsors, other than customary business courtesies that are reasonable in frequency and value. Employees must be aware that customary business courtesies may differ depending on the sponsor. For example, federal sponsors are under very strict requirements regarding gifts and gratuities. Offering or giving any payment, gift, or other thing of value to such a person for the purpose of obtaining or acknowledging favorable treatment (a "kickback") may be a crime.
- (j) "Sponsored Research Program" is made up of an individual or multiple contracts or grants sponsored by organizations external to the University.

## POLICY:

**1. INTRODUCTION**

Research is a significant and essential part of the University of Dayton's mission as a nonprofit, private educational institution. The University intends to serve society by converting the results of its research into products, processes, and services that will be available in the marketplace. To secure the resources necessary to support research, the University encourages its employees to seek and participate in externally-sponsored research projects funded by government agencies, foundations, nonprofit organizations, and industry, as well as University-sponsored projects.

In some instances, the most effective means of reducing technology to practice requires active participation by a scientific investigator in a private enterprise as an owner/co-owner, advisor or consultant. Participation in these activities may pose real or apparent conflicts with the integrity and objectivity of research at the University, and with the investigator's professional commitment to the University. Consequently, the purpose of this Conflict of Interest & Commitment Policy for all university employees engaged in sponsored research programs is to raise awareness of the duties and responsibilities involved in resolving these potential conflicts.

When a University employee engages in a federally-sponsored project, the employee's conduct is subject to the provisions of various federal statutes and regulations. When he or she works/consults for a business, non-profit agency, government agency, or other non-University contractor or prospective contractor in the same technical field as the externally sponsored project, care must be taken to avoid biasing the design, conduct, or reporting of the sponsored project. If performing such services, the employee must fully disclose such interests to the University and to the contractor insofar as they might appear to relate to the work at the University or for the contractor. A real or apparent conflict of interest could arise, for example, when a University employee participates, on behalf of a government agency or one of its contractors, in the evaluation of the work (or proposed work) of another organization, or a competitor, with which the employee has a consulting or employment relationship, or a significant financial interest.

This policy promotes objectivity in research and other sponsored activities by defining standards of conduct appropriate for each University employee participating in a sponsored project. The intent is to ensure that sponsored research activities are neither compromised nor appear to be compromised by any *other interest* of the responsible University employee.

**2. GENERAL POLICY STATEMENT**

The federal government has established technology transfer and economic competitiveness as national priorities and actively encourages the development of relationships between universities, government agencies, and industry to meet these objectives. However, such relationships increase the risk of conflicts between the private interests of individuals and those of the companies with which they are involved, or the public interests that government funding is required to serve.

Each employee is expected to maintain a professional loyalty to the University and to arrange outside obligations and financial interests such that they do not interfere with the basic principles of research integrity, academic freedom, business development ethics, and public interest. When performing research for government or private interest, or engaging in other activities in which a conflict may arise, the employee must protect the integrity of all research done at the University, future development of the University, and the good name of the University. Furthermore, employees must refrain from unauthorized use of the University's name or exploitation of their affiliation with the University for inappropriate purposes or private gain.

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University employees charged with the supervision of research, as well as those directly engaged in research, have an obligation to act in an ethical manner. Supervisors of research activities must ensure that employees are not placed in situations that could constitute conflicts of interest or commitment.

**2.1 Disclosure Requirement**

To minimize the occurrence of conflict of interest and identify situations where such conflict might exist, the University requires annual disclosure statements from its employees. The University will disclose all known conflicts of interest to sponsors when it cannot satisfactorily manage an actual or potential conflict of interest.

When an employee engaging in externally sponsored work has a financial interest in a business or with a non-profit agency, it is important to avoid actual or apparent conflicts between obligations to the project sponsor, the University, and these outside interests. A conflict of interest occurs when an employee compromises, or appears to compromise, the conduct of a project due to an outside relationship that directly or indirectly affects the financial interests of the employee or the employee's family. Although financial interests are most often the source of conflicts of interest, any situation that would compromise the objectivity or integrity of the employee's performance of duties on a sponsored research project are considered conflicts of interest whether financially motivated or not.

Situations in which conflicts of interest may arise, or may be perceived to arise, include, but are not limited to:

1. Undertaking an externally funded project for a sponsor in which the employee has a significant financial interest which may, or may be perceived to, bias the design, conduct, or reporting of the research activity;
2. Purchasing items or services using project funds from an organization in which the employee or members of their family have a significant financial interest;
3. Using for personal gain or transmitting to a business or non-profit agency, externally sponsored work products or proprietary information that are not made generally available. This does not preclude appropriate licensing arrangements for inventions, or consulting in the area of an externally sponsored project where there is significant additional work by the staff member independent of the externally sponsored project;
4. Unauthorized use of privileged or confidential information acquired in connection with externally-sponsored activities;
5. Influencing or attempting to influence the negotiation of grants or contracts between the University and private organizations in which the employee or members of their family have a significant financial interest;
6. Accepting gratuities or special favors from private firms with which the University does business in connection with an externally-sponsored project, or offering gratuities or special favors to representatives of these external organizations;
7. Entering a consulting arrangement with any organization or individual having a financial interest in the results of an externally-funded project;
8. Proposing an externally-funded project to a sponsor for which the employee serves on the sponsor's board of directors or as an officer with fiscal responsibility.
9. Involvement in any off-campus entrepreneurial venture or business in which the employee is a principal;
10. Accepting employment or engaging in uncompensated activities outside the University that conflicts with University duties and responsibilities;
11. Having any significant financial interests in any firm or entity that supplies or is likely to supply (other than a donation) equipment, materials, or services for work being performed at the University;

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12. Having any significant financial interest in, or research support from, any firm that markets, produces, or has in pre-market testing a commercial product or product line that the employee's work is intended either to evaluate or to further develop;
13. Having any significant financial interest with parties whose financial interest would be, or to a reasonable observer familiar with the facts, would seem to be directly and significantly affected by research or other work to be performed by the employee;
14. Having any other significant investment or interest by an employee or members of their family in an external business organization that parallels activities in which the University is currently engaged or prospectively engaged, whether or not the employee has undertaken to perform continuing work or services for them.
15. Having any business development activities whereby the employee is actively working on an initiative with the University, while working on the same initiative with an organization outside the University.
16. Discussing future employment with a person who can influence future funding or sponsorship decisions.

**RESPONSIBILITY FOR ENFORCEMENT, REMEDIES, SANCTIONS****3. PROCEDURES****3.1 Disclosure Statement**

UDRI employees and UD faculty and graduate students involved with sponsored research must disclose all significant financial interests or potential conflict of interest or commitment (including those of their family of which they are aware) that would reasonably appear to be directly and significantly affected by the research or educational activities funded or proposed for funding.

All UDRI employees, in conjunction with their annual performance reviews, and UD faculty and graduate students involved in sponsored research, in October of each year, shall complete the Conflict of Interest & Commitment *Disclosure Statement*, which will be used to determine if there is a real or perceived conflict of interest or commitment. The completed and signed form shall be sent to the employee's supervisor for review. If no conflict exists, the supervisor will sign the Disclosure Statement and forward it to the Contracts and Grants Office.

If an employee acquires a new reportable significant financial interest or potential conflict of interest or commitment, the employee shall submit a revised or new Disclosure Statement to his/her supervisor, who will submit it to the Contracts and Grants Office within five (5) working days of receipt. Any faculty or graduate students assigned to a new sponsored research program that have not completed a Disclosure Statement in the prior 12 months will also be required to complete one prior to beginning work on the program.

**3.2 Conflict Determination and Resolution**

The supervisor is responsible for the initial determination of whether a conflict of interest or commitment exists and noting this on the Disclosure Statement. To make this determination, the supervisor will review and sign all completed Disclosure Statements. Where potential conflicts exist, the supervisor will also review any additional information provided by the employee to make an objective decision. The supervisor will note the determination of a conflict of interest with one of two possible resolutions: (a) the employee may proceed under specified the

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conditions, or (b) the employee's participation is not approved. A copy of the supervisor's determination will be provided to the employee and the signed Disclosure Statement (including attachments) should be forwarded to the Contracts and Grants Office for review and concurrence by the Director of Research.

Following resolution of any potential conflicts at the division or department level, a Conflict Determination and Resolution form will be completed by the Director of Research. If the Director's review determines that a conflict still exists, the Director will request that the supervisor and employee establish an alternate plan of action. This alternate plan may consist of conditions or restrictions required by the University to manage, reduce, or eliminate the actual or apparent conflict. Examples of the conditions or restrictions that might be imposed include:

1. public disclosure of a *significant financial interest*;
2. monitoring of the project by independent reviewers;
3. modification of the project plan;
4. disqualification of the employee from participation in all or a portion of the project or business development activity;
5. withdrawal of the proposal or declination of an award;
6. divestiture of the *significant financial interest*;
7. severance of the relationship(s) that creates actual or potential conflicts; or
8. notification to the sponsor that a *significant financial interest* exists.

The Director shall notify the employee and the employee's supervisor of the final determination. The employee will be required to sign the Conflict Determination and Resolution form acknowledging his/her understanding of the resolution.

The Contracts and Grants Office shall maintain completed Disclosure Statements, Conflict Determination and Resolution forms and any supporting documentation related to a potential conflict of interest/commitment investigation as stated in 3.5 Maintenance of Records.

**APPEAL PROCESS****3.3 Appeal**

If the employee is not satisfied with the resolution of a conflict, an appeal can be made to the next level of supervision. The findings of the immediate supervisor will be reviewed and a determination will be made as to whether all pertinent factors were considered. The employee will be allowed to present any facts that might not have been considered or that may have been improperly interpreted in the initial review. The appeal officer (Definition (h)) will make a determination based on the original review and any new information submitted since the time of the original review. If the employee is still not satisfied, an appeal can be made to the Vice President for Research. While the decision of the Vice President for Research is considered to be final, the employee may elect to utilize the established University grievance procedure.

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**3.4 Noncompliance**

Any employee who knows of, or could reasonably have been expected to know of, and deliberately fails to respond appropriately to a potential conflict of interest shall be subject to disciplinary action ranging from a written reprimand to discharge. The Vice President for Research, after conferring with the employee's supervisor and other appropriate individuals, shall determine the disciplinary action warranted. The nature and severity of the disciplinary action shall be consistent with the University's established disciplinary procedures.

The Vice President for Research is responsible for ensuring adherence to these rules and principles in this policy. Failure to adhere will result in sanctions that may include:

1. special monitoring of future work,
2. letter of reprimand,
3. removal from the project or activity,
4. salary or rank reduction, and
5. termination of employment.

**3.5 Maintenance of Records**

Forms that don't require a resolution of a real, perceived or potential conflict will be maintained in the Contracts and Grants office for a period of three years after they are signed and dated by the supervisor. Forms that require a resolution of a real, perceived or potential conflict of interest must identify the account number(s) relevant to the conflict, if applicable; these forms will be maintained in the Contracts and Grants office for a period of three years after the resolution is approved by the Director of the Research Institute. If a real, perceived or potential conflict of interest cannot be resolved, and the conflict involves a federal contract, then the Vice President of Research will notify the sponsor.