POLICY ON CONFLICT OF INTEREST

Effective Date: March 27, 2005

I. PURPOSE AND SCOPE

This policy sets forth the obligations of Oregon State University and its employees with respect to conflict of interest. The policy provides guidelines for dealing with three categories of conflicts of interest – those that involve the research mission, those that involve the teaching mission, and those that arise under state law. These different types of conflicts are dealt with separately under this policy because each requires different steps for compliance.

If an employee at any point realizes that an existing relationship has become, or may appear as, a conflict of interest, they must immediately contact the Conflict of Interest Officer (see Section II2).

As the university promotes and encourages new and varied collaborations, it is a natural by-product that relationships can appear to become tangled and questionable, regardless of whether this is the case. Business transactions and the design, conduct and reporting of research/scholarly activity should not be biased or compromised by any conflicting financial interest or other potential or actual personal gain of an employee. Adherence to the highest levels of professional integrity by faculty, staff and students in all their actions is the factor that will result in avoidance of conflict of interest. These actions encompass research, teaching, student interactions, and external interests.

It should also be understood that there are not three separate types of conflicts of interest. Individual sections within the policy apply to all employees. All of the types of conflicts need to be reviewed by all employees as a conflict can exist individually under a specific category or may occur simultaneously during a single relationship or project.

What Is a Conflict of Interest?

A conflict of interest may occur when an employee is in a position to make a decision in his or her capacity as a university employee that may result in personal or family gain, financial or otherwise (see footnotes 4.iv and v, and 8 for appropriate definitions of family). These conflicts often arise as a result of the employee’s external activities that are related to their research, teaching or outreach activities. This policy recognizes that the potential for conflicts exist. The intent is to identify when such relationships exist and to appropriately manage the relationships in order to maintain the integrity of actions of all individuals. Disclosing a potential conflict of interest in no way suggests an inappropriate action by an employee but is instead a necessary management process within the University.

What Are the Types of Conflict of Interests?

First, within the research mission, this Policy promotes objectivity in research by establishing expectations and disclosure requirements to ensure that the design, conduct and reporting of research will not be biased by a conflicting interest, financial or otherwise, of an investigator. This section also includes the requirements of two federal agencies, the Public Health Service and the National Science Foundation, because their requirements are specifically established by agency regulation and policy.
Second, within the teaching mission, this policy addresses interactions with students, particularly graduate students, which can create the potential for conflict of interest under the University’s teaching mission.

Third, under state law, this policy addresses state conflict of interest requirements, which are designed to prevent state employees from making decisions in their capacity as state employees that affect the financial interests of employees or their families. Under state law, a conflict of interest may be either a potential conflict – when an employee acts in a way that could create a financial benefit to the employee or a member of the employee’s family – or an actual conflict when the employee does act in a way to create a conflict. The distinction between potential and actual arises based on the result of the employee's action. If the employee's action might - but might not - benefit the employee, it's a potential conflict. If the action clearly would benefit the employee, it's an actual conflict, and that employee action is prohibited. State law does not prohibit potential conflicts of interest but does require their disclosure. State law prohibits actual conflicts of interest.

**What Does the Policy Call For?**

- Annual reporting by Academic Staff Members to their unit head or chair (hereafter collectively referred to as unit head) of outside activities
- Disclosure by all employees to the unit head, of outside activities that create a potential conflict of interest
- Disclosure by Academic Staff Members to the Office of Sponsored Programs and Research Compliance of outside activities exceeding the applicable monetary threshold before submission of an application to the Public Health Service or the National Science Foundation
- Review of disclosures by appropriate individuals
- Management of identified potential conflicts of interest
- Avoidance of actual conflicts of interest

Other University policies also apply to interactions between University employees and organizations external to the University. They include the Policy on Outside Professional Activities, which addresses conflicts of commitment to the University that may arise from outside activities, and the Procurement Policy of the OSU Purchasing Handbook, which addresses conflicts that may arise in the University’s purchasing decisions. Other relevant policies also include, for Extension Faculty, Extension Guidelines on Outside Professional Activities, and Extension Service Policy: Service as an Expert Witness. To the extent that this Policy on conflict of interest conflicts with the OSU Policy on Outside Professional Activities, this policy controls. To the extent that this Policy on conflict of interest conflicts with the Extension Service policies, the Extension Service policies control.

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1 The University also plans to adopt a revised Conflict of Commitment Policy, which together with this Policy will replace the existing Policy on Outside Professional Activities. Until the adoption of a revised Conflict of Commitment Policy, the Policy on Outside Professional Activities continues in effect.
II. DEFINITIONS

1. “Academic Staff Member” means an employee with faculty rank, an employee with graduate rank who is involved in activities that may result in a conflict of interest, as well as any unpaid person engaged in teaching, research, scholarship or service at or on behalf of Oregon State University, including those with the title of “courtesy,” “affiliate,” “visiting,” “clinical” or “resident.” Faculty ranks are instructor, senior instructor, research assistant, research associate, lecturer, assistant professor, associate professor and professor. Graduate ranks are graduate teaching assistants, graduate research assistants and fellows.

2. “Conflict of Interest (COI) Officer” means the person appointed by Oregon State University administration to review all financial disclosures and identify and resolve conflicts.

3. “Financial Interest” means anything of monetary value, but does not include salary, royalties or other remuneration from OSU.

III. CONFLICT OF INTEREST WITHIN THE RESEARCH MISSION

All research at OSU must be appropriate to the mission of the university, i.e. it must promise significant contributions to scholarship and knowledge and, when possible, provide educational opportunities for students. The independence of research must be maintained. Faculty undertaking research should approach it free of bias and influence. When the potential for bias or influence exists, such relationships must be managed in a manner that safeguards the integrity of the research process.

Examples

- Diverting research or scholarship opportunities from the University to an entity in which an Academic Staff Member or relative has a Financial Interest.

- Sponsored research or contracts that involve a business entity in which an Academic Staff Member or a relative has a Financial Interest.

- An Academic Staff Member’s service on the board of directors or major advisory committee of an external entity in which the Academic Staff Member or a relative has a Financial Interest, where the entity sponsors the Academic Staff Member’s research or scholarship or provides gift funds for the use of the Academic Staff Member or his or her department.

- Sponsored projects where the research is driven primarily by commercial considerations and the sponsor has the ability to specifically direct research activities.

Process

Academic Staff Members must disclose potential conflicts of interest. Disclosures will be reviewed by the unit head, dean, and COI Officer. The COI Officer will determine appropriate monitoring and management, in consultation with the Academic Staff Member and the unit head and dean, as appropriate.

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2 The term research includes all forms of research, scholarship and creative activities.
Requirements Specific to Research Sponsored by PHS or NSF

The Public Health Service of the United States Department of Health and Human Services (PHS) and the National Science Foundation (NSF) have very specific requirements for identification, disclosure and management of conflicts of interest arising in research funded by those agencies. These federal requirements are in addition to - not a substitute for - the other provisions of this OSU policy. The PHS and NSF requirements apply specifically to grant proposals to, and research conducted with funding from, these two federal agencies.

Principal investigators and other key personnel (those directly involved in the conduct and reporting of results) must disclose to OSU BEFORE submission of an application for funding any Significant Financial Interests that would reasonably appear to be affected by the research for which funding is sought and in entities whose financial interests would reasonably appear to be affected by the research. OSU must review the disclosure, determine whether there is a conflict and, if so, manage, reduce or eliminate it – BEFORE funds are spent. Under the PHS and NSF rules, a conflict exists if the outside financial interest constitutes a Significant Financial Interest, and could directly and significantly affect the design, conduct or reporting of the research.

Other federal granting agencies are actively considering adoption of similar standards for institutional and individual management of conflicts of interest. The University will modify this policy to reflect those requirements if they are adopted.

IV. CONFLICTS OF INTEREST WITHIN THE TEACHING MISSION

Interactions between faculty and external organizations must be carefully assessed for their possible effects on students. Part-time involvement of graduate or undergraduate students in the external or research activities of faculty may, under certain conditions, offer the potential for substantial benefits to the education of the student, however they also create the potential for inappropriate decisions or actions that are not in the students’ best interests.

In considering such arrangements, University employees should be guided by the need to avoid conflicts of interest and to avoid infringement of the student’s academic duties and rights. For example, if the outside work is related to the student’s thesis, special care must always be taken to avoid conflicts that might hinder the student’s progress, delay acceptance of his or her thesis, or lead to altered examination standards. This section is not intended to preclude the involvement of graduate research assistants in commercial activities or work that will not be used for evaluation of a student or

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3 See 42 C.F.R. Part 50; 45 C.F.R. Part 64.
4 As used in the PHS and NSF rules and in this policy, “Significant Financial Interest” means 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 received from such rights). The term does not include:
   i. Salary, royalties or other remuneration from OSU;
   ii. Income from seminars, lectures or teaching engagements sponsored by public or nonprofit entities;
   iii. Income from service on advisory committees or review panels for public or nonprofit entities;
   iv. An equity interest that, when aggregated for the employee and the employee’s spouse and dependent children, meets both of the following tests: does not exceed $10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a five percent ownership interest in any single entity; or
   v. Salary, royalties or other payments that when aggregated for the employee and the employee’s spouse or dependent children, over the next twelve months, are not expected to exceed $10,000.
fulfillment of degree requirements under arrangements otherwise consistent with this and other University policies.

Examples

- Projects of a confidential nature that include restrictions of student publication or communication rights with respect to research/scholarship or other work that will be the basis of evaluation of the student, will fulfill degree requirements, or will affect the student’s career development. Such projects will only be permitted if the publication restrictions are reasonably necessary to protect intellectual property rights and do not prevent the publication of student research/scholarship in a timely manner. Publication in a timely manner shall usually be the earlier of six months from the completion of the project or the completion of the student’s degree requirement.

- Activities involving students that have the potential to benefit a business entity in which an Academic Staff Member or a relative of the Academic Staff Member has a Financial Interest. Approval shall be granted only where there is a demonstration that students will receive academic benefit from their efforts without risk to academic freedom, integrity and objectivity. This may include directed course projects, the results of which benefit the faculty’s personal or professional interests.

- Situations where a student has an academic relationship with an Academic Staff Member and the student is working for a company in which the Academic Staff Member (or a relative) has a Financial Interest.

- Situations where a student is an owner of a company and an Academic Staff Member has both an academic relationship with the student and has a Financial Interest in the company.

Process

All Academic Staff Members must disclose to their unit head arrangements involving students that may create conflicts of interest or infringe on a student’s academic duties or rights, i.e. potential conflicts of interest within the teaching mission. The COI Officer will determine appropriate monitoring and management, in consultation with the Academic Staff Member, the unit head, dean, and the Dean of the Graduate School, as appropriate.

V. CONFLICTS OF INTEREST UNDER STATE LAW

State law prohibits all state employees5, including University employees, from using their position as state employees to obtain a financial benefit that would not be available but for state employment. Despite this prohibition, state law allows university employees to earn income from consulting

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5 The law applies to “any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon * * * as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.” As a result, the law likely covers individuals who perform service for OSU without being compensated, such as Courtesy and Affiliate faculty members.
services, appearances and speeches, and intellectual property, so long as the University approves the outside work.\(^6\)

In addition to having prior approval to engage in outside activities, employees who engage in such activities must report in writing the receipt of any outside compensation that creates a potential conflict of interest.\(^7\) A potential conflict of interest occurs when an employee takes action in his or her capacity as a University employee to make decisions that could affect the Financial Interests of the employee or the employees’ relatives\(^8\), or businesses with which the employee or the employee’s relatives are associated. This may include situations where the employee’s action might, but is not certain to, benefit the employee’s Financial Interests, or where the employee recommends action that would benefit the employee’s Financial Interests, but the employee is not the final University decision-maker. In both cases, the employee could benefit, but is not certain to benefit, from the University’s decision.

In addition to the requirement to report any potential conflict of interest, state law also prohibits actual conflicts of interest, which arise when an employee takes action in his or her capacity as a state employee that would affect the Financial Interests of the employee or the employee’s relatives, or a business with which either is associated.\(^9\) This occurs when the employee makes a decision that clearly benefits his or her Financial Interests. State law prohibits state employees from making such decisions.

**Examples**

- An employee’s participation in a University decision to use University funds, or other public or private funds provided to the University, for expenditures that may benefit a business entity in which the employee or a relative of the employee or a business with which either is associated has a Financial Interest. This example could include:
  - testing a product in which an employee or a relative has a Financial Interest, or a product that is a competitor of a product in which the employee or a relative has a Financial Interest;
  - use of University resources to conduct research or scholarship that is sponsored by an entity in which the employee or a relative has a Financial Interest.
  - use of University employees in consulting activities, activities supported by gift funds, or research or scholarship sponsored by an entity in which the employee or a relative has a Financial Interest.

- An employee’s participation in a business relationship between the University and a for-profit or not-for-profit entity in which an employee or an employee’s relative has a Financial Interest.

- An employee’s recommendation to direct purchasing opportunities to a company owned by an employee or a relative of the employee, or an associated entity in which the employee or relative of the employee has a Financial Interest.

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\(^6\) See ORS 351.067; see also the University Policy on Outside Professional Activities.

\(^7\) See ORS 244.080(8); ORS 351.067(3); OAR 580-021-0025(2).

\(^8\) Under state law, the employee’s relatives include the employee’s spouse and the parents, children, brothers and sisters of either the employee or the employee’s spouse.

\(^9\) See ORS 244.020(1).
• Use of University employees supported by state or federal-source public funds for work tied
directly to the employee’s or a relative’s commercial concern.

The following are examples of circumstances that likely constitute an actual conflict of interest under
state law which are prohibited:

• A decision by a University employee, in his or her capacity as an employee that will benefit,
directly or indirectly, a business entity in which the employee or an employee’s relative has a
Financial Interest.

• Making professional referrals to a business in which an employee or an employee’s relative has a
Financial Interest, while acting in the context of his/her University duties.

Process

The reporting procedures addressed in section VI below are designed to elicit disclosure of potential
conflicts of interest among Academic Staff Members. Employees who are not Academic Staff
Members may also use the reporting procedures set forth in this policy to report any state law potential
conflicts of interests, or may report such potential conflicts to their unit heads.

The procurement of general goods and services from private enterprises can also lead to conflict of
interest. Procurement conflicts are specifically addressed in the Procurement Policy of the OSU
Purchasing Handbook. Because conflict situations covered by this policy may also involve
procurement issues, this policy, as well as the Purchasing Handbook, may both apply to some
situations.

VI. REPORTING AND MANAGEMENT PROCESS

Under this Policy, all Academic Staff Members are required to complete annually an Academic Staff
Report of Non-University Activities (hereafter called “Report”). The purpose of the Report is to
solicit information that allows the University to determine whether the Academic Staff Member has a
potential or actual conflict of interest under the OSU Policy on Outside Activities. The Report covers
a 12-month period regardless of the Academic Staff Member’s contract period or appointment.

Within the constraints imposed by state law, Reports will be made a part of the employee’s
confidential personnel record.

1. Each year, every Academic Staff Member will submit a completed Report. The Report is
available for download at ___________. The Report must be completed annually and submitted to
the Academic Staff Member’s unit head. For units that are not within an academic department, the
Report will be submitted to the appropriate dean or vice provost or vice president.

2. Any employee who is not an Academic Staff Member, but who has a potential conflict of interest,
shall submit a Report to the employee’s unit head. In addition, a unit head, dean, vice provost or
vice president has the discretion to require an employee who is not an Academic Staff Member to

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10 The Academic Staff Member should also complete a separate form requesting approval for outside employment, where appropriate. The
policy may be downloaded at: ???
submit a Report if circumstances warrant. Reports filed under this section will be processed in the manner described in this policy.

3. In addition to the annual filing, an additional form must be submitted if, during the reporting period, an Academic Staff Member engages in consulting, business or financial activities that were previously unreported, or if significant changes occur in the circumstances of a previously reported transaction or activity.

4. In addition to these reporting requirements, principal investigators and other key personnel (those directly involved in the conduct and reporting of results) must disclose in proposals submitted to federal funding agencies on behalf of Oregon State University any Significant Financial Interests that would reasonably appear to be affected by the research for which funding is sought and in entities whose financial interests would reasonably appear to be affected by the research. These financial disclosures must be updated during the period of the award.

VII. REVIEW PROCESS

1. Unit heads shall promptly review Reports for completeness and accuracy and forward them to their dean, or Vice Provost or Vice President if not in an academic department. The reports may include a proposed management plan for consideration by the COI Officer.

2. The dean shall promptly review each Report and forward it to the COI Officer.

3. The COI Officer shall promptly review submitted Reports and evaluate the nature and extent of actual or potential conflicts.

4. Any disclosures that involve potential conflicts of interests with graduate students will involve review by the Dean of the Graduate School

VIII. DECISION MAKING

The COI Officer, or designee, shall review all Academic Staff Member Reports and other information the COI Officer considers relevant, to evaluate whether a conflict of interest may exist and take appropriate action, as outlined below. At the request of the COI Officer, the Conflict of Interest Committee will advise the COI Officer on any issues of potential or actual conflicts of interest.

The Conflict of Interest Committee ("Committee") shall assist the COI Officer in evaluating and resolving issues of potential or actual conflicts of interest. The Committee shall be comprised of 12 faculty members and staff from the campus at large representing the diversity of academic and research/scholarship disciplines and administrative functions of the University. Faculty members are appointed to the Committee by joint decision of the Vice Provost for Academic Affairs and International Programs and the Vice President for Research. The Committee shall include the Director of the Office of Sponsored Programs and Research Compliance and the Director of Technology Transfer. All faculty and staff members have voting rights. A quorum consists of seven

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11 See the definition of “Significant Financial Interest,” footnote 4.
or more voting members. The Office of the General Counsel shall advise the Committee. The Committee shall serve in an advisory capacity to the COI Officer. The COI Officer shall evaluate and make decisions on actual or potential conflicts of interest or request the Committee’s help in formulating a resolution.

A Committee member shall not participate in the discussion or vote on a particular case if the Committee member has a personal interest in the case under consideration or the Committee member has a Financial Interest in the case under discussion. A Committee member shall not participate in any voting on a particular case if it involves members of their academic unit (department or comparable functional unit) but may be involved in discussions of the case at the discretion of the committee chair.

The COI Officer shall determine the appropriate resolution of a conflict of interest. Resolution of a conflict may include, but is not limited to, a determination that no conflict of interest exists, in which case the Academic Staff Member shall be informed and the matter closed; a determination that a conflict of interest may exist, in which case the COI Officer shall work with the Academic Staff Member and his or her immediate supervisor (and any other administrators who should be involved) on a plan to eliminate or manage the conflict (“Management Plan”).

A Management Plan may include a range of actions, for example, modifications to the research plan; appointment of an oversight panel or person to monitor the research/scholarship; appointment of an oversight person or panel to monitor the use of students and staff; disclosure of significant conflicts at presentations of results; limitations on the Academic Staff Member’s involvement in personnel decisions; transfer of purchasing authority; divestiture of financial interests and severing relationships that constitute actual or potential conflicts. A Management Plan shall be in writing and shall be signed by the COI Officer, the unit head, the Dean, and the Academic Staff Member.

Failure to comply with this policy may subject an Academic Staff Member to sanctions up to and including dismissal, in accordance with OAR 580-21-0320 et seq. The severity of the sanction will depend on the nature of the violation of this policy. Inadvertent, unintentional and minor breaches require lesser sanctions, whereas knowing, deliberate and major violations demand the severest sanctions.

When sanctions involve a conflict of interest that includes a research or scholarship project administered by the University, the University will also take any action legally required by the funding agency.

**IX. APPEALS**

An Academic Staff Member may appeal a decision of the COI Officer to the Vice Provost for Academic Affairs and International Programs. If the conflict involves externally funded research, the Vice Provost for Academic Affairs and International Programs shall consult with the Vice President for Research.
X. SPECIFIC INSTITUTIONAL REQUIREMENTS FOR PHS AND NSF

For the purpose of this Section X of this policy, “Investigator” means the principal investigator and any other person who is responsible for the design, conduct, or reporting of research funded by the Public Health Service (PHS) of the National Science Foundation (NSF) or proposed for such funding.

The University shall, for any federal research funding from the PHS or the NSF, or any other federal funding agency that imposes these requirements:

- Include in any sub-grant, subcontract or other sub award a requirement that the sub grantee, subcontractor or sub awardee comply with this policy.
- Maintain for at least three years from the date of submission of the final expenditures report all records of financial disclosures and all actions taken by the University.
- Report any conflicting interest to the awarding component that issued the award prior to expending any funds.
- Report any interest identified as conflicting subsequent to the initial report within 60 days of that identification.
- Make the conflict information available, on request, to the funding agency.
- Promptly notify the awarding component of the funding agency of the corrective action that has been taken, if an Investigator has biased the research.

In addition, the University shall:

- For a PHS-funded project to evaluate a drug, medical device or treatment conducted by an Investigator with a conflict that was not disclosed or managed, require Investigators to disclose the conflict in each public presentation of the results of the research.
- For an NSF funded-project, inform NSF’s Office of the General Counsel appropriately informed if it is unable to satisfactorily manage a conflict of interest.

XI. REFERENCES


2. U. S. Department of Health and Human Services, Objectivity in Research, Subpart F – Responsibility of Applicants for Promoting Objectivity in Research for Which Funding is Sought, 42 CFR Part 50, Subpart F (for HIH Contracts, Responsible Prospective Contractors, 45 CFR Part 94, Sections 1, 2, 3, 4, 5 and 6)

3. OSU Policy on Outside Professional Activities

4. OSU Purchasing Handbook, Procurement Policy

5. Oregon Revised Statutes, Chapter 244; ORS 351.067

XII. ADDITIONAL INFORMATION

Questions about this Conflict of Interest Policy should be directed to the COI Officer.