

# Oklahoma State University Policy and Procedures

## CONFLICT OF INTEREST

**4-0130**  
**RESEARCH**  
**February 2006**

### INTRODUCTION

1.01 As an institution dedicated to excellence in education, research and outreach, Oklahoma State University places a high value on research integrity and academic freedom. Objectivity in the conduct of research, the freedom to disseminate ideas through publication of research results, the protection of the rights and interests of research participants, maintenance of public trust, and the ability to ensure that our responsibility to our students and trainees is not compromised are critical to these institutional values. Relationships with industry and other outside entities, while important to the support and advancement of research, can present special challenges in protecting these institutional values.

1.02 This policy addresses situations where there might be a potential financial conflict between a particular outside interest of an employee and the obligation that the employee owes to the University such that an employee's profit or advantage may come, or reasonably appear to come, at the expense of the well-being of the University.

1.03 The purpose of this policy is to aid in identifying apparent, actual, and potential conflicts of interest and guide the subsequent management of them so as to assure that such conflicts do not improperly affect the activities or professional conduct of the University or its employees.

1.04 It is not the intent of this policy to restrict legitimate work appropriate to the employee's profession, discipline, or outside interests, but only to provide the University with authority to take action that is appropriate, proportionate, and focused on substantial conflicts of interest that may compromise or be perceived to compromise an employee's professional judgment.

### STATEMENT OF GENERAL POLICY

2.01 Oklahoma State University is a public institution committed to the mission of teaching, research and extension/outreach. To these ends, the institution balances an assortment of principles: maintaining an atmosphere that promotes free and open scholarly inquiry; facilitating the transfer of information and technology for the benefit of the public; and serving as a prudent steward of public and private resources entrusted to it. Employees have a primary commitment to their basic University duties of teaching, research and creative activity, and service. These basic duties often limit outside activities. As a result, professional and personal activities may present conflict of interest situations which should be evaluated under the auspices of this and other applicable policies.

2.02 Employee participation in outside professional, commercial and *pro bono* activities can make important direct and indirect contributions to the strength and vitality of the University.

Through participation in such activities, employees may add to knowledge and understanding that is relevant and useful to teaching and research within the University, develop sources of funding and support for activities carried out in the University, and establish relationships valuable to the University. Because of its value to the University, its rewards to employees, and its contributions to the larger society of which the University is a part, the University recognizes that employee participation in outside professional, commercial, or *pro bono* activities is often appropriate.

2.03 Sound professional discretion is an integral part of the University's conflict of interest system. Any review of a potential conflict of interest will be undertaken in light of four general propositions. First, conflicts of interest per se are inevitable, and do not necessarily represent any impropriety by employees if disclosed in advance. Second, the failure to disclose a conflict of interest for administrative review and response would be a serious mistake for any employee, and may be a breach of this policy. Third, there is a presumption in favor of allowing employees to act in dual roles once the conflict of interest has been disclosed. (Prior approval is required in cases of potential conflicts involving federal grants or contracts. See 5.02 below.) Fourth, conflicts of interest may be so profound or substantial under some circumstances that it would be best for all concerned if the employee did not participate in a particular transaction.

2.04 It is not possible to completely eliminate the potential for conflict of interest because there are certain rewards and incentives that are inherent or appropriate in the structure of a university enterprise. Such conflicts become detrimental when the potential temptations, financial or otherwise, undermine reasonable objectivity in the design, conduct and reporting of research; setting University policies; managing contracts; selecting equipment and supplies; involving students in sponsored projects; or performing other roles in University governance in which objectivity and integrity are paramount. Furthermore, since allegations of conflicts of interest based on appearances can undermine public trust in ways that may not be adequately restored even when mitigating facts are brought to light, apparent conflicts should be avoided, when feasible and appropriate.

2.05 Other sections of this Policy notwithstanding, it is the ongoing responsibility of the employee to abide by the provisions of all other applicable federal, state, and University's laws and policies relating to conflicts of interest; and to disclose and seek guidance on such matters from the Appropriate Administrator.

## **WHEN IS THERE A CONFLICT OF INTEREST?**

3.01 A conflict of interest exists when a Significant Financial Interest could substantially compromise an employee's judgment in the performance of University duties. A conflict of interest depends on the situation and not on the character or actions of an individual.

3.02 Employees are responsible for disclosing Significant Financial Interests that would reasonably appear to be affected by or to affect their University duties. However, it is the responsibility of the University, not the discloser, to determine if the disclosed interest could significantly affect the performance of University responsibilities and to require the management, reduction, or elimination of the conflict.

## DEFINITIONS

4.01 Appropriate Administrator: The senior administrator in whom authority resides over the particular unit in which the individual is employed will provide oversight.

4.02 Compensation: All remuneration or other things of value received in payment for services rendered is considered to be compensation. This can include salary or other forms of payment including gifts, stocks, or other items of significant financial value.

4.03 Employee: Any person possessing either a full-time or part-time appointment at the University who is eligible to receive benefits and receives a salary or wage for his/her defined responsibilities. This definition does not include temporary employees appointed thirty (30) days or less or a member of the Board of Regents of Oklahoma State University. For application of this policy, this definition may include students, both undergraduate and graduate, who work on a grant or contract and have responsibility, in whole or in part, for the reporting of research.

4.04 Family: An employee's spouse and dependent children.

4.05 Serious Breach: A serious breach of this policy is a failure to disclose or prohibited action in conscious disregard of this policy. Conscious disregard is a mental state embracing either (i) intent to deceive, manipulate or defraud; (ii) guilty knowledge; or (iii) moral awareness that the alleged conduct violated the policy.

4.06 Significant Financial Interest: Anything of monetary value, including, but not limited to, salary or other payment 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).

The term does **not** include:

- A. salary, royalties, or other remuneration from Oklahoma State University;
- B. income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
- C. income from service on advisory committees or review panels for public or nonprofit entities;
- D. equity interest in mutual funds whose investments are not directly controlled by the employee;
- E. an equity interest that, when aggregated for the employee and the employee's spouse and dependent children, meets **all** of the following tests:

1. does not exceed ten thousand dollars (\$10,000) in value as determined through reference to public prices or other reasonable measures of fair market value;
  2. does not represent a five percent (5%) or more ownership interest in any single entity; and
  3. did not yield dividends of one thousand dollars (\$1000) or more during the preceding calendar year; or
- F. salary, royalties, or other payments that, when aggregated for the employee and the employee's spouse and dependent children over the next twelve months, are not reasonably expected to exceed ten thousand dollars (\$10,000).

Potential equity value should be considered in those instances where the employee has an equity interest in a privately-held company and the potential exists for bias in design, conduct, or reporting of research based on future financial benefit; the true value of that interest may not be known until the firm goes public, but the faculty or staff employee should make a reasonable assessment of the future market value of the equity.

Regardless of the above minimum requirements, an employee, in his or her own best interest, is encouraged to disclose any other financial or related interest that could present an actual conflict of interest or reasonably be perceived to present a conflict of interest. Disclosure is a key factor in protecting one's reputation and career from potentially embarrassing or harmful allegations of inappropriate behavior. Employees are encouraged to ask for guidance from their department chair/head or dean even in situations that are not covered by the disclosure procedures in this policy.

4.07 University Resources: All University facilities, personnel, equipment, property, materials or proprietary information constitute University resources.

## **PROCEDURES FOR DISCLOSURE, REVIEW AND MANAGEMENT OF POTENTIAL CONFLICTS OF INTEREST**

### 5.01 Disclosure

Every employee of the University subject to this policy shall make annual disclosure of any significant financial interest(s), as defined in 4.06 of this policy, which would reasonably appear to be a conflict of interest. This disclosure shall be made in writing to the Appropriate Administrator (Deans and Vice Presidents will disclose to the Provost and Senior Vice President). The Appropriate Administrator may consult with advisory personnel, group or committee appointed for that purpose pursuant to policies and procedures established by the University or with others in connection with the review, and upon completion, shall advise the employee in writing of his or her decision, and the reasons for the decision, to accept (with or without modifications), return for more information or reject the recommendations. If accepted, the notification shall include, among other things, requirements for immediate action and plans for continued monitoring of the potential or actual conflict.

Employees shall provide at least ten (10) University working days for review of their disclosure prior to making any commitment that could reasonably lead to a conflict. However, in the event the ten (10) working day time period is not feasible, the employee should identify the need for expedited review and submit the request to the Appropriate Administrator. Any changes that occur in an employee's significant interests during the year shall be disclosed promptly and reviewed in the manner described above.

#### 5.02 Prior approval

- A. As required by federal law and regulations, all financial disclosures must be made, and all identified conflicts of interest must be satisfactorily managed, reduced or eliminated prior to the University's submission of proposals and expenditure of funds under the award, in accordance with the institution's conflict of interest policy.
- B. Although there is a presumption in favor of allowing employees to act in dual roles once a conflict of interest has been disclosed, an employee shall not proceed with proposed activity prior to University evaluation as detailed in 5.01

#### 5.03 Examples of Management of Conflicts of Interest

Conditions or restrictions that might be imposed by the University to manage, reduce or eliminate actual or potential conflicts of interest include but are not limited to:

- A. public disclosure of relevant information regarding the conflict of interest, such as all relevant significant financial interests:
- B. monitoring of research by independent reviewers:
- C. modification of the research plan, activity or agreement to eliminate or minimize the conflict of interest;
- D. designation of an appropriate University representative to have immediate oversight responsibility over the management plan;
- E. divestiture of significant financial interests;
- F. disqualification from participation in the portion of the activity that would be affected by the significant financial interests:
- G. severance of the relationships that create actual or potential conflicts;
- H. termination of student involvement in the project.

Some Federal funding agencies permit research to proceed, in spite of disclosed conflicts, if the review determines that imposing restrictions or conditions would be either ineffective or inequitable, and that the potential negative impacts that may arise from a significant financial

interest are outweighed by interests of scientific progress, technology transfer, or the public health and welfare. However, the University is ultimately responsible for the determination of whether a research or educational project that involves a conflict should proceed.

All management plans must be focused and narrowly tailored to minimize or eliminate improper conflicts of interest.

#### 5.04 Reports

After development of an acceptable management plan and commencement of the work, the appropriate individuals with oversight responsibility will regularly report, in writing, to the Appropriate Administrator on the effectiveness of the plan. The frequency of such reports shall be determined by the Appropriation Administrator but shall in all events be at least annually.

#### 5.05 Modification of Management Plans

If, after sufficient experience to assess the effectiveness of the management plan and after notice to and full consultation with all appropriate parties, the Appropriate Administrator determines that the conflict has not been properly managed or has become unmanageable, he/she may modify the plan. If outside agencies require notification of conflict resolution and management, they will be notified in accordance with their requirements.

#### 5.06 Forms

The forms suggested for this disclosure and management process are at the end of this policy. The Provost and Senior Vice President shall provide annual notice (e.g., by posting on the University web site) and explanation of the forms to be used in the disclosure process for the coming year.

#### 5.07 Retrospective Sanctions

It is understood that employees shall clearly, fully and truthfully disclose, in writing, all activities, relationships, or interests that might present conflicts of interest. Nevertheless, there shall be no retrospective sanctions under this policy for the period of time after the ten (10) day review period, detailed in paragraph 5.01, when the Appropriate Administrator knew of such activities, relationships, or interests, and, acting in good faith, took no action to manage, minimize, or eliminate them.

### **UNIVERSITY ADMINISTRATOR RESPONSIBILITIES**

6.01 Because of the special role that chairs of departments and committees, deans of colleges and schools, the Provost and Senior Vice President, the President, and other senior academic officials play in administering the affairs of the University, it is especially important that employees serving in these administrative positions avoid involvements in outside professional and commercial activities that pose potential conflicts of interest with the fulfillment of their responsibilities to the University. The necessary involvement of these administrative officials in

the appointment and promotion process, in decisions concerning students, and in the supervision of other faculty requires that they be especially sensitive to potential conflicts of interest and that they uphold a particularly rigorous standard for avoiding such conflicts.

## **CONSEQUENCES OF POLICY VIOLATIONS**

7.01 Employees are subject to the ordinary disciplinary process of the University if they fail to fully and truthfully disclose activities or relationships that could reasonably be viewed as conflict of interest situations or fail to comply with any stipulated plan for managing the disclosed conflict. (See Faculty Handbook General Policy Statement Sections 1.12 through 1.16, “Administrative Suspensions,” Section 1.13 “Disciplinary Actions,” and Appendix C “General Termination Procedures;” Policy and Procedures Letter No. 3-0710 “Resignations and Dismissals for Classified Staff;” Policy and Procedures Letter No. 3-0726 “Employment, Resignation, Suspensions, and Dismissals for Administrative and Professional Staff;” Policy and Procedures Letter No. 3-0746 “Grievances and Appeals for Administrative/Professional and Classified Staff.”) In addition, they may be subject to criminal sanctions or civil liability under federal and/or state law.

7.02 Failure to disclose known conflicts of interests or to follow an appropriate prescribed management plan may be a serious breach of this policy and may itself be considered ethical misconduct or professional dishonesty.

7.03 Allegations against an employee for breach of this policy should be reported in a confidential writing to the employee’s supervisor.

## **MISCELLANEOUS PROVISIONS**

### **8.01 Confidentiality**

All information disclosed by an employee for the purpose of disclosure and management, and all official records of disclosure and management shall be considered a part of the employee’s personnel file or student file and shall be deemed confidential. Any information disclosed by an employee as required by this policy shall be used solely for the purpose of administering and/or executing this policy and may not be disclosed or used for any other purpose unless required by law. Unauthorized disclosure of any such information shall be deemed to be unethical behavior and a violation of this policy and subject to appropriate disciplinary action.

The University is required to make information available, upon request, to Federal agencies sponsoring work at the University regarding all conflicting interests associated with the funded project identified by the University and how those interests have been managed, reduced, or eliminated to protect the research from bias. The University maintains records of all financial disclosures and all actions taken by the University with respect to each conflicting interest for a reasonable period of time. For sponsored research activities, records will be retained for at least three years from the date of submission of the final expenditures report or where applicable, from

other dates specified by requirements of the sponsoring agency. The above notwithstanding, all such records shall be retained for the period of time as may be required by law.

#### 8.02 Relationship to other University policies

There are a number of University policies that govern the duties and responsibilities of University employees which, while not repeated here, nevertheless may apply to conflict of interest situations.

#### 8.03 Conflict of interest laws

In addition to this policy, the state has imposed laws and rules governing conflicts of interest in state employment. This Policy overlaps with but does not supplant University employees' responsibilities under state or federal law, which in some instances will include additional, and sometimes different, prohibitions, penalties and reporting duties. Relevant state laws/rules are available at the Office of University Legal Counsel. Federal conflicts of interest laws also may be applicable to those who receive federal grants/contracts or to those employed partly by federal agencies. By reference thereto, this policy includes all requirements relating to conflicts of interest to which the University and/or its employees are subject under state or federal law.

#### 8.04 Freedom of expression and academic freedom

This policy does not purport to prohibit expressive conduct protected from severe sanctions, punishment, or other undue burdens by the Constitutions of the United States and of Oklahoma. Specifically, nothing in this policy shall be construed to authorize the University to take adverse action against any employee for consulting or outside professional activities because of the employee's viewpoint, ideology, creed, political opinion, or for any other political motivation.

### **DISCLOSURE**

#### 9.01 Who must disclose:

- Tenured and tenure-track faculty
- Research professors, associate research professors, and assistant research professors
- Professors, associate professors, and assistant professors with renewable-term appointments
- Research scientists and senior research scientists
- Administrators
- Employees whose annual salary exceeds \$60,000
- Any employee who is responsible for the design, conduct, or reporting of a research project funded by or proposed for funding by Federal agencies that require such disclosures.

#### 9.02 When must disclosure be filed:-

- Whether or not there is any conflict to report, covered employees should file an annual report by October 1 each year.
- Any employee who has an actual conflict of interest must report it whenever it occurs.
- Prior to submission of grant/contract proposals to Federal agencies any employee responsible for the design, conduct or reporting of research must disclose, whether or not an actual conflict or potential conflict exists. Federal regulation further requires the disclosure to be updated annually or when new reportable Significant Financial Interests are obtained.
- When an employee reasonably believes a potential conflict of interest may exist.

9.03 What must be disclosed:

In completing the conflicts of interest reporting form, employees must disclose those Significant Financial Interests that would reasonably appear to affect, or to be affected by, their University duties.

Approved by Board of Regents September 1996

Revised: April 2006

## APPENDIX A

The following examples are intended to illustrate the reporting requirements of OSU's Conflict of Interest Policy. They are keyed to the disclosure form found at the end of this policy. Inquiries should be directed to the appropriate administrator.

Do you have an Interest in an entity or activity that...

(a) does business with the University in an area in which you make spending decisions?

Example A1. The director of a research unit intends to purchase a large piece of equipment. There are several possible vendors. One vendor is a small company owned by the director. *Purchasing decision reasonably appears affected by outside interest—disclosure is required.*

Example A2. Same facts as above, but vendor is a large, multinational corporation in which director owns shares of stock worth less than \$10,000. *Outside interest may profit from University activities, but interest is not significant—disclosure is not required.*

(b) profits from the sale of course material (coursepacks, software, etc.) or other goods or services to students whom you teach or evaluate?

Example B1. A faculty member has created a custom software package that provides interactive tutoring specifically designed for his/her calculus course. The faculty member invites all 500 students in the calculus class to purchase the package at a per-unit markup of \$20. *Outside interest profits from University activities—disclosure is required. Additionally, activity may implicate state law prohibition against private profit from public employment, and University policy regarding sale of course materials to students.*

Example B2. An accounting faculty member works each summer for a private corporation that offers test-prepared courses to students planning to take the CPA exam. *Outside interest related to University activities, but neither affected by the other—disclosure is not required.*

(c) employs University faculty, staff or students who you directly supervise or evaluate in that employment and also supervise or evaluate at the University.

Example C1. The husband of a faculty member in Engineering owns a small research company and wishes to hire graduate students whose thesis research the faculty member supervises. *Student evaluated by faculty member is directly supervised in private concern by spouse—disclosure is required.*

Example C2. A faculty member in the Department of History is the director of a bank. Some of the bank's employees are students; some are students of the faculty member; but none are directly supervised in their employment by the faculty member. *Interest employs faculty member's students, but faculty member does not supervise them—disclosure is not required.*

- (d) sponsors a project at the University over which you have any degree of control?

Example D1. A faculty member is employed as a consultant by a corporation that makes computer chips and is also the principal investigator on a University research project funded by the corporation. *Interest profits from faculty member's University duties—disclosure is required.*

- (e) profits from research you do at the University?

Example E1. A faculty member works as a private consultant for a biotechnology company on projects related to his/her University research program. During the past year he/she earned more than \$10,000 in consultant fees. In addition, he/she has submitted a grant application to NIH for support of a research project related to the business interests of the company. *Outside interest may profit from research activities—disclosure is required.*

- (f) competes with the University for project funding in the area of your University duties.

Example F1. Through a contract between his/her department and a state agency, a faculty member provides training to state agency workers. The following year, the faculty member offers to contract personally with the agency to provide the same training. *Faculty member competes with the University for project funding—disclosure is required.*

- (g) uses University-owned intellectual property, or University equipment or facilities.

Example G1. Faculty member provides information on his/her private consulting service on his/her University website. *Interest profits from use of University facilities—disclosure is required. Additionally, state law prohibiting private use of public property may be implicated.*

OKLAHOMA STATE UNIVERSITY  
CONFLICTS OF INTEREST REPORTING FORM

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Name

Department

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The information you provide is confidential and will be used only as required to report and manage conflicts of interest as described in OSU Policy and Procedures 4-0130. Return this form directly to the appropriate administrator.

1. Do you have an interest in an entity or activity that...
  - a. does business with the University in an area in which you make spending decisions?  
 Yes       No
  - b. profits from the sale of course material (coursepacks, software, etc.) or other goods or services to students whom you teach or evaluate?  
 Yes       No
  - c. employs University faculty, staff or students who you directly supervise or evaluate both in that employment and at the University?  
 Yes       No
  - d. sponsors a project at the University over which you have any degree of control?  
 Yes       No
  - e. profits from research you do at the University?  
 Yes       No
  - f. competes with the University for project funding?  
 Yes       No
  - g. uses University-owned intellectual property, or University equipment or facilities?  
 Yes       No
2. Other than those covered in Question 1, do you have an interest in any entity or activity that could reasonably appear to affect, or be affected by, the exercise of your University responsibilities?  
 Yes       No
3. Do you have any interests reported in Questions 1 or 2 that are not already subject to a conflict management plan? (Leave blank if no interests reported.)  
 All interests are subject to an existing conflict of interest management plan.

At least one interest is not subject to an existing conflict of interest management plan.

If you had no interests to report, or if the interests reported are already subject to a conflict of interest management plan, skip Questions 4 and 5, sign below, and return this form to the appropriate administrator. Otherwise, please complete Questions 4 and 5 before signing. *A "Yes" to Questions 1 or 2 does not mean that a conflict exists, but you may be asked to provide further information about the activity.*

4. Continuing on a separate sheet if necessary, please describe:

a. The nature of the entity or activity (type and name of businesses, etc.):

b. Your relationship to the entity or activity (including your position or title, if any):

c. The *nature* of your interest (ownership, salary, equity interest, etc.) and its *extent* (full ownership, salary in excess of \$10,000, etc.):

d. The nature of the potential conflict:

5. Does the interest or your related University responsibility involve receipt of federal funding?

Yes       No

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I have read and understood the Oklahoma State University Financial Conflict of Interest Policy and declare that I have used all reasonable diligence in preparing this disclosure statement, which to the best of my knowledge is true, accurate, and complete. I understand that under the Policy I have a responsibility to update the above information throughout the coming year if my circumstances change.

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Signature

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Date