



University of Colorado

Boulder • Colorado Springs • Denver • Anschutz Medical Campus

ADMINISTRATIVE POLICY STATEMENT

Policy Title: Conflicts of Interest and Commitment

APS Number: 5012

APS Functional Area: HUMAN RESOURCES

Brief Description:	Facilitates implementation of the general conflict of interest policy adopted by the Board of Regents on 04/26/1975 (see IV-C), outlines the university's approach to identifying, evaluating and managing potential conflicts of interest and commitment issues for all employees and the institution, assists in carrying out the shared responsibility of addressing conflict of interest and commitment issues, and provides institutional guidelines for the campuses to follow in developing more detailed procedures that minimize potential conflict situations.
Effective:	January 7, 2010
Approved by:	President Bruce D. Benson
Responsible University Officer:	Associate Vice President and Academic Affairs Officer
Responsible Office:	Academic Affairs, Office of the President
Policy Contact:	Academic Affairs, Office of the President
Supersedes:	Administrative Policy Statement dated July 1, 1994 and revised September 1, 2006.
Last Reviewed/Updated:	January 7, 2010
Applies to:	The policy applies to all employees, including but not limited to administrators, faculty members, research associates, research assistants, professional staff members, as well as consultants.

Reason for Policy: To implement the [Regents Conflict of Interest Policy 2A](#) and clarify university wide requirements relating to conflicts of interest and commitment.

I. INTRODUCTION¹

The university encourages and supports outside interactions of its faculty and student employees with federal, state, and local governments, and with business and industry as important parts of their research, education, and public service activities. In limited cases, similar opportunities are encouraged for university staff members as well.

Maintenance of the public's trust is critical to the mission and reputation of the university or campus². University teaching, research, outreach, and other activities shall not be compromised, or perceived as compromised, by financial and/or

¹ The University of Colorado would like to acknowledge and thank the University of Minnesota and the AAMC/AAU Task Force on Financial Conflicts of Interest. The policy has been modeled after prior policies and a guidance they have developed.

business considerations. As a result of its numerous, complex and valuable relationships with public and private entities, the university or campus shall have processes in place to identify any relationships involving financial gain that could compromise, or appear to compromise, its integrity. It shall also have processes then to manage, reduce, or eliminate any institutional conflict of interest.

II. POLICY STATEMENT

- A. Since outside interactions also carry with them an increased potential for conflicts of interest and/or commitment, either actual or perceived, it is important to communicate the following points:
1. Many conflicts that are properly disclosed can be adequately managed without detriment to the reputation, integrity or position of the institution and the individual.
 2. In most cases, problems associated with actual or perceived conflicts of interest or commitment do not arise from the conflicts per se, but rather are the result of a failure to openly acknowledge and actively manage them.
 3. It is important to outline the institutional process for identifying, assessing and managing these potential conflicts to assure that both the integrity of the university and the core activities of its faculty, staff and students are protected.
 4. There is a need to provide flexibility for individual campuses to establish procedures in identifying and managing potential conflicts of interest and commitment that are consistent with the intentions of this policy.
 5. It is critical to establish guidelines, in accordance with requirements from federal agencies including the Public Health Service (PHS) and National Science Foundation (NSF), for those relationships with outside organizations that will help to assure the primacy of academic integrity and delineate the bounds of acceptable conduct for those who conduct any type of research and particularly research involving human subjects.

Nothing in this policy shall be construed to be inconsistent with other Regent policies and Administrative Policy Statements including the Intellectual Property Policy on Discoveries and Patents for their Protection and Commercialization policy last effective on 3/02/06 (Faculty Handbook, Academic Principles, Professional Rights and Responsibilities, and Related Policies, Section V.) and the Procedures for Implementing Regent Policies on Conflict of Interest and Nepotism effective as of 7/1/09. With the acceptance of an appointment at the University of Colorado, employees shall adhere to the Board of Regents policies and state and federal laws and regulations related to conflict of interest and commitment.

B. Areas of Potential Institutional Conflicts of Interest

1. University Intellectual Property

The university has a legal duty to manage its intellectual property. This responsibility is articulated in the related policies listed below. In accordance with these policies, the university has the authority to license and receive compensation for its intellectual property. In certain cases, the entity licensing the intellectual property may have other research, financial or business relationships with the university that could raise a conflict.

For example, when an entity both licenses university intellectual property for a commercial purpose and also sponsors university research on the intellectual property at issue, institutional conflicts of interest may arise. When the university is conducting research on its own intellectual property such research and related findings may also be subject to challenge. Even when the individual researcher does not have a financial interest in the intellectual property, the knowledge that the university, campus or research laboratory stands to gain financially from successful development of a licensed technology can influence the direction of related research or other university or campus activity, the objectivity of research, the dissemination of results and the allocation of resources among competing projects and activities.

2. Purchasing

A vendor or potential vendor also has a financial or business relationship with the university or campus. A conflict, or the appearance of a conflict, can arise in purchasing situations when a *university or campus official*

² For purposes of this policy, University of Colorado System Offices will be included within the term of campus.

covered by this policy has a financial, personal, or business interest in a vendor whose products or services are being considered for purchase at the university or campus.

3. *University or Campus Officials with Individual Conflicts of Interest*

Because of their supervisory and institutional decision-making functions, these individuals encounter conflict of interest situations beyond those faced by most faculty and other administrators. They often do not conduct research, teaching or faculty service projects in their administrative capacities but may be in a position to influence how they are conducted and reported. Their business and significant financial relationships with external entities shall be disclosed to prevent any real or perceived institutional conflicts of interest.

C. Disclosure, Review and Management

The AAU and AAMC guidelines on conflicts of interest and commitment recommend that academic institutions should have adequate procedures for identifying potential conflicts through annual disclosure, and for ensuring rigorous and consistent review of such disclosures. A disclosure in and of itself is not suggestive of any impropriety; rather, it is customary and usual and benefits both the individual and the university. Indeed, full disclosure of relevant information and the establishment of a public record are in the best interest of the university and its faculty, staff and students. Disclosure should not unnecessarily restrict or preclude any activities. In fact, activities that may at first appear questionable may be deemed acceptable and permissible when all facts regarding the activity are examined. The disclosure process may take different forms at each campus, and is appropriate given the unique organizational issues faced by each.

Each campus shall develop and implement an oversight process to address individual and institutional conflicts of interest, real or perceived, that may arise with plans to manage, reduce or eliminate individual or institutional conflicts of interest. Conflict management plans shall ensure adequate intra-university coordination among the various offices involved, including where appropriate sponsored programs administration, institutional review boards, Technology Transfer Office, procurement office, and responsible campus administrators so as to protect the integrity of the university's academic, research and clinical enterprises.

In rare cases, the university individual or committee responsible for managing conflicts of interest may find that an individual or institutional activity presents a conflict that is incompatible with an employee's or the institution's fundamental responsibilities, such that management of the conflict is impossible or impracticable. The following cases are illustrative of unmanageable conflicts:

1. When the individual has a responsibility to another organization so that the individual is unable to fulfill his/her university duties.
2. When the individual has commitments that are counterproductive to or undermine each other.
3. When the individual seeks to use or provide or actually uses or provides a third party unauthorized access to unpublished information resulting from university research or other confidential university sources (this section does not supersede the Regent policy on classified research).
4. When the individual proposes to enter or enters a consulting agreement with obligations that conflict with university patent policy or with the university's obligations to research sponsors.
5. When the individual circumvents the university policies and procedures and seeks to conduct or conducts research through a third party or outside the university to the disadvantage of the university and its legitimate interests.
6. When the university officer exercises his or her contract authority for a sponsored research agreement, grant or contract and for which the officer or family member receives a direct financial benefit.

III. DEFINITIONS

A. *Individual Conflicts of Commitment*

The term *individual conflict of commitment* refers to situations in which outside relationships or activities (such as professional consulting for a fee) conflict, or have the appearance of conflicting, with an employee's commitment to his/her university duties or responsibilities. Such activities are acceptable when they comply with university policy (including the one-sixth rule), promote professional development of faculty and student employees, and enrich the individual's contributions to the institution, to their profession and to the community. Consulting relationships, for example, may serve to create conduits for the exchange of information and technologies that enhance the university

environment and permit faculty to test the soundness of their ideas. Separate policies may apply to faculty; for example, in the School of Medicine, faculty are subject to separate guidelines and required to direct all outside professional activities through University Physicians, Incorporated (UPI).

B. *Individual Conflicts of Interest*

The term *individual conflict of interest* refers to situations in which financial or other personal considerations may conflict, or have the appearance of conflicting, with an employee's professional judgment in exercising any university duty or responsibility in administration, management, instruction, research and other professional activities. The bias such conflicts could conceivably impart may inappropriately affect the goals of research, instructional, or administrative programs. The education of students, the methods of analysis and interpretation of research data, the hiring of staff, procurement of materials, and other administrative tasks at the university shall be free of the undue influence of outside interests.

The mere appearance of a conflict may be as serious and potentially damaging as an actual distortion of instructional, research, and/or administrative goals, processes, and/or outcomes. Reports of conflicts based on appearances can undermine public trust in ways that may not be adequately restored even when the mitigating facts of a situation are brought to light. Apparent conflicts, therefore, should be disclosed and evaluated with the same vigor as actual conflicts.

C. *Institutional Conflicts of Interest*

The term *institutional conflicts of interest* refers to situations in which the teaching, research, outreach, administrative, financial, operational or other activities of the university could be compromised because of external financial interests and/or business relationships held by the university as a body corporate or by a *university or campus official* acting within his/her authority on behalf of the university or campus, that could bring financial gain to the university, campus, any of its units, and the individuals covered by this policy.

D. *University or Campus Official*

The term *university or campus official* refers to Officers as defined by [University of Colorado Administrative Policy Statement Officer Disclosure of Interests](#) of the university and any other person who has significant authority to act on behalf of the university or campus that is so pervasive, or a responsibility for research, teaching or administration that is so direct, that a conflict between individual financial interests and the university's research, teaching or administration should also be considered an *institutional conflict of interest*.

IV. RELATED POLICIES, PROCEDURES, FORMS, GUIDELINES, AND OTHER RESOURCES

A. Administrative Policy Statements (APS) and Other Policies

1. [Intellectual Property Policy on Discoveries and Patents for their Protection and Commercialization](#)
2. [Intellectual Property that is Educational Materials](#)
3. [Officer Disclosure of Interests](#)
4. [Nepotism in Employment](#)

B. Procedures

The chancellor for each campus is responsible for the development of campus processes in consultation with faculty and shared governance groups. The president is responsible for the development of the system process in consultation with faculty and shared governance groups. Each campus shall adhere to federal regulations mandated by NSF and/or PHS for conflicts of interest and commitment and the guidelines established in this policy. The chancellor shall designate an institutional official who will be responsible for developing more specific written procedures for supplementing this policy.

These procedures may be implemented differently at each campus or system offices, and this is appropriate given the unique organization and orientation of each campus. A campus may choose to develop more restrictive policies for itself or individual schools, which is also appropriate provided that school and campus policies are consistent with the university Policy. At a minimum, the procedures should include:

1. Requisite employee annual disclosures that contain sufficient information to satisfy the requirements of NSF and/or PHS.
2. An identification of campus individuals that are within the definition of *university or campus official* for purposes of determining campus institutional conflicts of interest.
3. A description of how disclosures will be reviewed and centrally inventoried.
4. A description of how responsible officials are to identify and be informed of potential conflicts.
5. A description of how this process will be published and reported back to responsible administrators.
6. A description of the process for developing conflict management plans and of the procedures for implementing and overseeing conflict management plans.
7. A description of the process by which an employee may appeal a decision regarding a conflict.
8. A description of how the campus will provide training and advice to academic administrators, faculty, staff and students about conflict of interest and commitment issues, including required disclosures and management plans.
9. A description of how the campus process will be reviewed and validated on a regular basis.
10. A description of procedures for ensuring intra-campus coordination among all organizations with a role in oversight of conflicts as may be applicable: the employee, his/her department or organizational unit, sponsored programs office, Institutional Review Board, technology transfer, and appropriate university officers.
11. A description of the process by which the campus will make available publicly its implementation procedures for this policy.
12. A description of how the institution will establish adequate enforcement mechanisms and provide for sanctions where appropriate.

To ensure that the university successfully implements this administrative policy statement, campus procedures will be subject to periodic review by the Academic Affairs Officer. When necessary, the Academic Affairs Officer shall convene a meeting of the responsible officials from each of the campuses to review and report on issues addressed by the campuses in their respective implementation strategies.

C. Other Resources (i.e. Training, Contact Information)

Regents Conflict of Interest Policy 2A

Source: Regent Action 4/26/75 (Faculty Handbook, Academic Principles, Professional Rights and Responsibilities, and Related Policies, Section V.)

“Resolved, because it is essential to the effective operation of the University of Colorado that administrative officers and other employees of the university be independent and impartial in all actions involving the university, that public office not be used for private gain, and that there be complete public confidence in the integrity of the university, now, therefore,

Be it resolved: that it is the policy of the Board of Regents that the university shall conduct its affairs so that no member of the university community shall derive private gain from his/her association with the university except as provided by explicit policies of the university.”

V. HISTORY

Initial Policy: January 28, 1992

Revised: July 1, 1994

Revised: September 1, 2006

Revised: January 7, 2010

VI. KEY WORDS

Law suits, illegal business relationships