



POLICY TITLE	Conflict of Interest	Policy Number	114
Section	Governance, Organization, and General Information	Approval Date	August 13, 2009
Subsection	Governance and Organization	Effective Date	August 13, 2009
Responsible Office	Office of the Vice President of Finance and Administration		

1.0 PURPOSE

1.1 This policy is intended to promote the public interest and strengthen public confidence in the integrity of the University by establishing standards and procedures for employees to follow when there are actual or potential conflicts of interest between their duties/responsibilities to the University and their private interests.

1.2 This policy does not intend to deny any employee opportunities available to all other citizens of the state to acquire private economic or other interests so long as this does not interfere with the full and faithful discharge of his or her university duties or disadvantage the University in any manner.

2.0 REFERENCES

2.1 IRS, *FAQs for Government Entities Regarding De Minimis Fringe Benefits*

2.2 42 CFR Part 50, Subpart F (*Responsibility of Applicants for Promoting Objectivity in Research*)

2.3 Utah Code §63-2 (2) (1992) *Government Records Access and Management Act (GRAMA)*

2.4 Utah Code §67-16-5 (3) (a) *Utah Public Officers' and Employees' Ethics Act*

2.5 Utah State Board of Regents' Policy R925 *Conflict of Interest*

3.0 DEFINITIONS

3.1 Area specialist: An employee of the University whose official job duties identify them as the “most responsible person” for the development, implementation, management, and/or oversight of a critical university function.



3.2 Business entity: A sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity that carries on a trade or business, including parent organizations of such entities or any other arrangement in which an entity operates through a subsidiary.

3.3 Compensation: Anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity for or in consideration of personal services, materials, property, or the like.

3.4 Compliance Officer: A university employee assigned to assist the University's divisions, units, departments, administrators and employees in complying with applicable state and federal laws, regulations, and statutes, as well as Regents' and university policy.

3.5 Conflict of Interest: A conflict of interest exists when a university employee owes a professional obligation to the University, which is or can be compromised by the pursuit of outside interests.

3.6 Conflict of Interest Disclosure Form (Disclosure Form): The University form to be used to disclose actual or potential conflicts of interest.

3.7 Employee: Any person who is employed by the University, whether full- or part-time. It also includes investigators as defined by federal policies and individuals who are not paid on a project (i.e., volunteers).

3.8 Gift: Includes money, non-pecuniary gifts, excessive compensation or non-commercial loans. For the purposes of this policy, a gift does not apply to occasional non-pecuniary gifts that have an insignificant monetary value, as defined by the *Utah Public Officers' and Employees' Ethics Act*, that would not tend to improperly influence an employee in the discharge of his/her duties.

3.9 Family: For the purposes of this policy, family includes the individual, his or her spouse, minor children, or any dependent.

3.10 Intellectual property: Any ideas, inventions, technology, creative expression, and embodiments thereof, in which a proprietary interest may be claimed, including but not limited to patents, copyrights, trademarks, know-how, and biological materials.

3.11 Investigator: The principal investigator and all faculty, staff, postdoctoral appointees, residents or students, whether paid by the University or not, who are responsible for the design, conduct or reporting of research or scholarly activities conducted in whole or in part at the University.



3.12 Management plan: A written plan of action developed between the University and an employee by which a conflict or potential conflict can be managed, mitigated, or eliminated. A management plan typically requires the oversight of the employee's immediate supervisor.

3.13 Significant financial or other interest: Anything of significant monetary value, including but not limited to salary or other payments for services; equity interest (e.g., stocks, stock options, or other ownership interest); intellectual property rights (e.g., patents, copyrights, and royalties from such rights). "Significant financial or other interest" also means the holding of a position as an officer, director, agent, or employee of a business entity. "Significant financial and other interest" includes such interest held by the employee or by the employee's family members. However, significant financial or other interest does not include salary, royalties, or other compensation received by the employee from the University; income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities; or income from service on advisory committees or review boards/panels for public or nonprofit entities

3.14 Substantial interest: The ownership, either legally or equitably, by an individual, their spouse, or minor children, of at least ten percent (10%) of the outstanding capital stock of a corporation or ten (10%) interest in any other business entity.

4.0 POLICY

4.1 All employees shall comply with the *Utah Public Officer's and Employees' Ethics Act*, Utah Code Annotated § 67-16-1 et seq. (the Ethics Act) which requires, among other things, disclosure of certain conflicts of interest to other entities including the state Attorney General's Office.

4.2 It is the duty of all employees to disclose in writing to their respective supervisor, all actual and potential conflicts of interest between the employee's duties/responsibilities to the University and their private interests and activities.

4.3 Upon receipt of an employee's disclosure of a conflict of interest or upon the University's own identification of a conflict of interest, the University shall evaluate and, if necessary, appropriately manage the conflict, all in accordance with a conflict management plan.

5.0 PROCEDURES

5.1 The University's Compliance Officer, or the President's designee, will facilitate the implementation of this policy.

5.2 Disclosure of Actual and Potential Conflicts of Interest

5.2.1 While all conflicts of interest shall be disclosed to an employee's immediate supervisor at the time of hire and annually thereafter, every employee shall also immediately disclose each



actual and potential conflict of interest when such conflict of interest first arises. Disclosure is the key mechanism to bring actual and potential conflicts of interest to light for evaluation and possible oversight.

5.2.1.1 Disclosure consists of completing and submitting to an immediate supervisor a *Conflict of Interest Disclosure Form* prior to engaging in any potentially prohibited activities.

5.2.1.2 A *Conflict of Interest Disclosure Form* must be filed any time a new conflict of interest arises or at the first recognition that a potential conflict of interest may exist or has existed.

5.2.1.3 When making a conflict of interest disclosure, an employee may include a proposed conflict of interest management plan.

5.2.1.4 Within three business days of receiving a disclosure form from an employee, the supervisor will forward the form to the compliance officer, who will forward the disclosure to the appropriate area specialist.

5.2.1.5 Employees are encouraged to contact the compliance officer with any questions or concerns regarding this policy or any conflict of interest.

5.3 Conflicts of Allegiance, Commitment, or Financial Conflicts

5.3.1 University employees shall not:

- 1) Participate in their official capacity with respect to any transaction between the University and a business entity in which the employee has a substantial interest;
- 2) Receive compensation (in addition to regularly budgeted salary or wages for services to the university) as a result of, or in connection with, any transaction between the University and a business entity in which the employee has a substantial interest;
- 3) Accept employment or engage in any business or professional activity which the employee may be required or induced to disclose confidential information acquired by reason of the employee's university position;
- 4) Disclose confidential information acquired by reason of the employee's university position, or to use such information for the employee's or another's gain or benefit;
- 5) Accept other employment which might impair the employee's independence of judgment in the performance of the employee's university duties and responsibilities;
- 6) Knowingly receive, accept, take, seek, or solicit directly or indirectly, any gift or loan for themselves or another if it tends to influence the discharge of the employee's university duties or



responsibilities, or if the employee has recently been, now is, or in the near future may be involved in any action or decision directly affecting the donor or lender; or

7) Have personal investments in any business entity which will create a substantial conflict between their private interests and their university duties.

5.4 Additional Activities that Require Disclosure

5.4.1 Research and Scholarly Activity

5.4.1.1 Disclosure is required when a principal investigator or project director has a significant financial or other interest that could affect the approval, design, conduct, or reporting of funded research.

5.4.1.2 Disclosure is also required when all of the following apply:

- 1) An employee or family member has a significant financial or other interest in a sponsor of research;
- 2) The employee has responsibility for designing, conducting, or reporting the research;
- 3) The research will involve subordinates; and
- 4) The employee will provide an academic or employment evaluation of the subordinate based in part upon the subordinate's work on the research project, or restrictions will be placed on the publication rights of the subordinate.

5.4.1.3 Disclosure is required when an investigator has significant financial or other interest in any clinical research.

5.4.2 Intellectual Property Activity

5.4.2.1 Disclosure is required when an employee is a named inventor of intellectual property owned by the University and the employee has a significant financial or other interest in a business entity related to the intellectual property.

5.4.3 Procurement Activity

5.4.3.1 Disclosure is required when a university employee, officer, or a member of their family has a significant financial or other interest in a business entity proposing to enter into a transaction with the University, and that university employee, officer, or family member is in a position to influence the outcome of the university's decision on that transaction.



5.4.3.2 Disclosure is required when an employee or family member has a significant or other interest in a business entity that provides goods or services, the University provides the same or similar goods and services, and the employee is in a position to direct potential purchasers of the goods and services away from the university and to the business entity. This provision does not cover consulting faculty or staff.

5.5.1 Upon receipt of a *Conflict of Interest Disclosure Form*, or upon the University's own identification of a conflict of interest, the Compliance Officer will determine the area specialist who should address the actual or potential conflict and then forward all information regarding the actual or potential conflict of interest to the area specialist for assessment and handling. The employee and his or her immediate supervisor will be notified of the area specialist assessing and handling the matter.

5.5.2 The area specialist will determine if a conflict of interest exists. If no conflict of interest exists, then the appropriate parties shall be immediately notified and no further action will be required. However, if a conflict does exist, the area specialist must then determine if the proposed or engaged in activity can perhaps be managed or shall instead be summarily prohibited. In the event the conflict of interest is such that the proposed or engaged in activity is prohibited, the area specialist shall inform the appropriate parties immediately upon making such a decision, and the employee shall cease and/or not engage in such activity. In the event the conflict of interest can perhaps be managed, a management plan shall be required.

5.6 Conflict of Interest Management Plan Requirements

5.6.1 Whether a proposed management plan is submitted by the employee in conjunction with the disclosure of the conflict of interest, or whether a management plan needs to be developed, the employee, the employee's immediate supervisor, the Compliance Officer and the area specialist, shall work together to develop an acceptable management plan. The employee may not engage in any of the activities where a conflict of interest exists until the parties develop a management plan, acceptable to the area specialist, to manage the conflict of interest.

5.6.2 Once a management plan is accepted, it will be distributed by the Compliance Officer to the employee, the employee's immediate supervisor, the area specialist, and the appropriate vice president. The employee is responsible for compliance with the management plan and the employee's immediate supervisor is responsible for oversight of the management plan.

5.7 Confidentiality

5.7.1 Subject to GRAMA and all other applicable state and federal laws, all records and information provided by an employee for the purpose of disclosure and management of a conflict shall be considered a private and/or protected record under GRAMA and shall be used solely for the purpose of administering this policy, and may not be used for any other purpose unless required by law.



5.7.2 The Compliance Officer, or the President's designee, shall maintain a centralized confidential file of conflict of interest disclosures and management plans.

5.7.3 Improper disclosure of any such information by an employee shall be deemed to be unethical behavior and may subject the employee to discipline, in compliance with applicable university policy, up to and including termination.

5.8 Appeals

5.8.1 An appeal of any decision of an area specialist concerning the existence of a conflict of interest or acceptability (or non-acceptability) of a proposed management plan may be made to the respective vice president within 10 business days of the employee's receipt of such a decision. In the event the area specialist is a vice president, then the appeal shall be to the President or his or her designee.

5.8.2 All appeals must be in writing and should include all pertinent information and any related documents.

5.8.3 A decision on the appeal shall be made within 10 business days and such decision shall be final and binding.

5.9 Violations

5.9.1 In the event of any confirmed violation of this policy or of any management plan, the respective vice president may impose appropriate disciplinary actions, including but not limited to the following:

- 1) Employee discipline proceeding (including but not restricted to: reprimands, fines, probation, suspension, dismissal, the freezing of sponsored program funds, etc.) pursuant to applicable disciplinary policies and procedures;
- 2) Withholding payment owed under a procurement contract relating to the conflict;
- 3) Legal action to rescind university contracts entered into in violation of this policy or state law; and
- 4) Other appropriate actions as required by state and federal law, such as but not limited to the filing of criminal complaints pursuant to the *Ethics Act*, and reporting conflict of interest violations to external agencies or sponsors.



UTAH VALLEY UNIVERSITY
Policies and Procedures

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity