

# Summary of COI-C Policies and Regulations

## DRAFT Summaries and Full Text as noted

ORCR 1-2-09 MR

A number of federal and state of Oregon regulations and UO policies carry with them specific requirements that affect UO faculty and other employees. These address areas of code of conduct and ethics, and potential and actual conflicts of interest. They also address the extent to which UO faculty may engage in overload activities and the handling of relationships to external entities by faculty or other UO employees. The summary for NIH Standards of Conduct is from NIH. All other summaries provided by ORCR.

### Federal Acquisition Regulations System

#### 48 CFR Part 1, 1.101 Purpose

Link: [http://edocket.access.gpo.gov/cfr\\_2007/octqtr/48cfr1.101.htm](http://edocket.access.gpo.gov/cfr_2007/octqtr/48cfr1.101.htm)

Summary:

Establishes principles, polices and procedures for acquisition of all US government executive agencies.

#### 48 CFR Part 1, 1.102 Guiding Principles for FARs

Link: [http://edocket.access.gpo.gov/cfr\\_2007/octqtr/48cfr1.102.htm](http://edocket.access.gpo.gov/cfr_2007/octqtr/48cfr1.102.htm)

Summary:

To deliver on a timely basis the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives.

#### 48 CFR Part 2, 2.101 Definitions

Link: [http://edocket.access.gpo.gov/cfr\\_2007/octqtr/48cfr2.101.htm](http://edocket.access.gpo.gov/cfr_2007/octqtr/48cfr2.101.htm)

Full Text:

Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

#### 48 CFR Part 9, 9.505 Contractor Qualifications – General Rules

Link: [http://edocket.access.gpo.gov/cfr\\_2007/octqtr/48cfr9.505.htm](http://edocket.access.gpo.gov/cfr_2007/octqtr/48cfr9.505.htm)

Summary:

The exercise of common sense, good judgment, and sound discretion is required in both the decision on whether a significant potential conflict exists and, if it does, the development of an appropriate means for resolving it. The two underlying principles are: (a) Preventing the existence of conflicting roles that might bias a contractor's judgment and (b) Preventing unfair competitive advantage.

### US Department of Education

#### 34 CFR 80.36 (b) (1) Procurement – Procurement Standards

Link: [http://edocket.access.gpo.gov/cfr\\_2007/julqtr/34cfr80.36.htm](http://edocket.access.gpo.gov/cfr_2007/julqtr/34cfr80.36.htm)

Full Text:

Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in 80.36.

### **34 CFR 80.36 (b) (3) Procurement – Procurement Standards**

Link: [http://edocket.access.gpo.gov/cfr\\_2007/julqtr/34cfr80.36.htm](http://edocket.access.gpo.gov/cfr_2007/julqtr/34cfr80.36.htm)

#### Summary:

Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
  - (ii) Any member of his immediate family,
  - (iii) His or her partner, or
  - (iv) An organization which employs, or is about to employ, any of the above,
- has a financial or other interest in the firm selected for award.

### **USDE Required Contract Clause**

The US Department of Education developed a new clause that is inserted into contracts.

#### Full Text:

The contractor shall submit a Conflict of Interest Plan within 60 days after effective date of this modification, providing details on its policies and procedures to identify and avoid potential organizational or personal conflicts of interest (or apparent conflicts of interest). The Plan should also address procedures taken to neutralize or mitigate such conflicts, if they have not been or cannot be avoided. The Plan should indicate that such policies and procedures are operative throughout the period of performance of the contact or task order. The policies should address, at a minimum, gifts, outside activities, financial interests, or other significant connections or identifications that would establish, or give the appearance of establishing, a conflict of interest. A method for periodically reviewing financial interests of employees, subcontractors and consultants, and their immediate families, in order to assess actual or apparent conflicts of interest should be included in the plan. In this clause, the term “potential conflict” means reasonable foreseeable conflict of interest.

## **Food and Drug Administration**

### **21 CFR Part 54 Financial Disclosure by Clinical Investigators**

Link: [http://www.access.gpo.gov/nara/cfr/waisidx\\_08/21cfr54\\_08.html](http://www.access.gpo.gov/nara/cfr/waisidx_08/21cfr54_08.html)

Summary: The FDA requires complete and accurate disclosure and certification of information concerning the financial interests of the clinical investigator.

[Applies only to FDA sponsored clinical research and is not yet applicable to UO. However, future partnering with health and medical institutions may increase the potential for this type of research.]

## **Public Health Service and US Department of Health and Human Services**

UO Human Subjects Research Assurance (FWA 00005914) with US Department of Health & Human Services, Office for Human Research Protections (OHRP) states that all human subject research, regardless of funding source, will follow DHHS regulations.

# National Institutes of Health

## Standards of Conduct – NIH Grants Policy Statement

Link To NIH Grants Policy Statement: [http://grants.nih.gov/grants/policy/nihgps\\_2003/index.htm](http://grants.nih.gov/grants/policy/nihgps_2003/index.htm)

### Summary:

NIH requires grantees to establish safeguards to prevent employees, consultants, members of governing bodies, and others who may be involved in grant-supported activities from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private financial gain for themselves or others, such as those with whom they have family, business, or other ties. These safeguards must be reflected in written standards of conduct. Except as provided below, NIH does not require a grantee to establish separate standards of conduct if it maintains such standards for its non-grant-supported activities, as long as those standards are consistent with State and local laws and cover, at a minimum, expected conduct in regard to financial interests, gifts, gratuities and favors, nepotism, and such other areas as political participation and bribery. The standards also must do the following:

1. Address the conditions under which outside activities, relationships, or financial interests are proper or improper.
2. Provide for advance notification of outside activities, relationships, or financial interests to a responsible organizational official.
3. Include a process for notification and review by the responsible official of potential or actual violations of the standards.
4. Specify the nature of penalties that the grantee may impose. These penalties would be in addition to any penalties that NIH or a cognizant Federal agency may impose for infractions that also violate the terms or conditions of award.

The grantee is not required to submit its general standards of conduct to NIH for review or approval. However, a copy must be made available to each of its officers, each employee and consultant working on the grant-supported project or activity, each member of the governing board, if applicable, and, upon request, to NIH. The grantee is responsible for enforcing its standards of conduct, taking appropriate action on individual infractions, and, in the case of financial conflict of interest, informing the IC CGMO if the infraction is related to an NIH award.

## 42 CFR Part 50, Subpart F, Responsibility of Applicants for Promoting Objectivity in Research for Which PHS Funding is Sought, 50.603 – Definitions

Link to CFR: [http://edocket.access.gpo.gov/cfr\\_2007/octqtr/42cfr50.603.htm](http://edocket.access.gpo.gov/cfr_2007/octqtr/42cfr50.603.htm)

### Full Text:

Definitions as used in Subpart F:

HHS means the United States Department of Health and Human Services, and any components of the Department to which the authority involved may be delegated.

Institution means any domestic or foreign, public or private, entity or organization (excluding a Federal agency).

Investigator means the principal investigator and any other person who is responsible for the design, conduct, or reporting of research funded by PHS, or proposed for such funding. For purposes of the requirements of this subpart relating to financial interests, "Investigator" includes the Investigator's spouse and dependent children.

PHS means the Public Health Service, an operating division of the U.S. Department of Health and Human Services, and any components of the PHS to which the authority involved may be delegated.

PHS Awarding Component means the organizational unit of the PHS that funds the research that is subject to this subpart.

Public Health Service Act or PHS Act means the statute codified at 42 U.S.C. 201 et seq.

Research means a systematic investigation designed to develop or contribute to generalizable knowledge relating broadly to public health, including behavioral and social-sciences research. The term encompasses basic and applied research and product development. As used in this subpart, the term includes any such activity for which research funding is available from a PHS Awarding

Component through a grant or cooperative agreement, whether authorized under the PHS Act or other statutory authority.

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 from such rights). The term does not include:

- (1) Salary, royalties, or other remuneration from the applicant institution;
- (2) Any ownership interests in the institution, if the institution is an applicant under the SBIR Program;
- (3) Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
- (4) Income from service on advisory committees or review panels for public or nonprofit entities;
- (5) An equity interest that when aggregated for the Investigator and the Investigator's spouse and dependent children, meets both of the following tests:
  1. Does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, **and**
  2. does not represent more than a five percent ownership interest in any single entity;
- (6) Salary, royalties or other payments that when aggregated for the Investigator and the Investigator's spouse and dependent children over the next twelve months, are not expected to exceed \$10,000.

Small Business Innovation Research (SBIR) Program means the extramural research program for small business that is established by the Awarding Components of the Public Health Service and certain other Federal agencies under Pub. L. 97-219, the Small Business Innovation Development Act, as amended. For purposes of this subpart, the term SBIR Program includes the Small Business Technology Transfer (STTR) Program, which was established by Pub. L. 102-564.

**42 CFR Part 50, Subpart F, Responsibility of Applicants for Promoting Objectivity in Research for Which PHS Funding is Sought, 50.604 – Institutional responsibility regarding conflicting interests of investigators (And in NIH Grants Policy Statement)**

Link to CFR: [http://edocket.access.gpo.gov/cfr\\_2007/octqtr/42cfr50.604.htm](http://edocket.access.gpo.gov/cfr_2007/octqtr/42cfr50.604.htm)

Link to NIH Grants Policy Statement: [http://grants.nih.gov/grants/policy/nihgps\\_2003/index.htm](http://grants.nih.gov/grants/policy/nihgps_2003/index.htm)

**Summary:**

NIH requires grantees and investigators [see definition of investigators above] to comply with this subpart. This subpart promotes objectivity in research by establishing standards to ensure that the design, conduct, and reporting of research funded under PHS grants or cooperative agreements will not be biased by any conflicting financial interest of an investigator. These requirements do not apply to Phase I of the SBIR/STTR programs. [See definition of SBIR above]

The signature of the face page of the application serves as certification of compliance with the requirements of 42 CFR Part 50, Subpart F. Under those requirements the organization must do the following:

1. Certify, in each application for NIH funding, that there is a written and enforced administrative process to identify and manage, reduce, or eliminate conflicting financial interests with respect to proposed research projects
2. Before spending any NIH funds awarded under a new award, inform the CGMO of the existence of any conflicting financial interests it identified of the type covered by 42 CFR 50.605
3. When informing the CGMO that a financial conflict of interest has been identified, ensure that the interest has been addressed in accordance with the regulations by indicating whether the conflict has either been managed, reduced, or eliminated
4. Continue to make similar reports on subsequently identified conflicts within 60 days of identifying them

5. Make additional information available to NIH, upon request, as to how it handled conflicting interests in accordance with the regulations.

Grantees also must ensure that consortium agreements address whether the consortium participant's employees will be subject to the financial conflict of interest requirements of the consortium participant or to those of the grantee (see "[Consortium Agreements](#)" in Subpart B of this part). Some IRBs also consider investigator financial conflict of interest in their deliberations, although they are not required to do so (see "[Public Policy Requirements and Objectives—Requirements Affecting the Rights and Welfare of Individuals as Research Subjects, Patients, or Recipients of Services—Human Subjects](#)").

Following are some strategies used by IRBs:

1. Make IRB members aware of the organization's conflict of interest policies and procedures.
2. Include a statement in the informed consent form that all clinical investigators comply with the organizational guidelines.
3. Ask investigators to complete a short questionnaire about whether they—or any person responsible for the design, conduct, or reporting of research—have an economic interest in or act as an officer or a director of any outside entity whose financial interest could reasonably appear to be affected by the research.
4. Instruct IRB members during their orientation on how to identify and respond to a perceived financial, academic, or other conflict of interest.

Suggestions for grantees to consider when implementing the requirements of this regulation are available in the NIH publication, [Financial Conflict of Interest—Objectivity in Research: Institutional Policy Review](#), available on the NIH website at [http://grants.nih.gov/grants/policy/coi/nih\\_review.htm](http://grants.nih.gov/grants/policy/coi/nih_review.htm).

#### **42 CFR Part 50, Subpart F, Responsibility of Applicants for Promoting Objectivity in Research for Which PHS Funding is Sought, 50.605 – Management of conflicting interests**

Link to CFR: [http://edocket.access.gpo.gov/cfr\\_2007/octqtr/42cfr50.605.htm](http://edocket.access.gpo.gov/cfr_2007/octqtr/42cfr50.605.htm)

Full Text:

a) The designated official(s) must: Review all financial disclosures; and determine whether a conflict of interest exists and, if so, determine what actions should be taken by the institution to manage, reduce or eliminate such conflict of interest. A conflict of interest exists when the designated official(s) reasonably determines that a Significant Financial Interest could directly and significantly affect the design, conduct, or reporting of the PHS-funded research.

Examples of conditions or restrictions that might be imposed to manage conflicts of interest include, but are not limited to:

- (1) Public disclosure of significant financial interests;
- (2) Monitoring of research by independent reviewers;
- (3) Modification of the research plan;
- (4) Disqualification from participation in all or a portion of the research funded by the PHS;
- (5) Divestiture of significant financial interests; or
- (6) Severance of relationships that create actual or potential conflicts.

(b) In addition to the types of conflicting financial interests described in this paragraph that must be managed, reduced, or eliminated, an Institution may require the management of other conflicting financial interests, as the Institution deems appropriate.

#### **42 CFR Part 50, Subpart F, Responsibility of Applicants for Promoting Objectivity in Research for Which PHS Funding is Sought, 50.606 – Remedies**

Link to CFR: [http://edocket.access.gpo.gov/cfr\\_2007/octqtr/42cfr50.606.htm](http://edocket.access.gpo.gov/cfr_2007/octqtr/42cfr50.606.htm)

Full Text:

(a) If the failure of an Investigator to comply with the conflict of interest policy of the Institution has biased the design, conduct, or reporting of the PHS-funded research, the Institution must promptly

notify the PHS Awarding Component of the corrective action taken or to be taken. The PHS Awarding Component will consider the situation and, as necessary, take appropriate action, or refer the matter to the Institution for further action, which may include directions to the Institution on how to maintain appropriate objectivity in the funded project.

(b) The HHS may at any time inquire into the Institutional procedures and actions regarding conflicting financial interests in PHS-funded research, including a requirement for submission of, or review on site, all records pertinent to compliance with this subpart. To the extent permitted by law, HHS will maintain the confidentiality of all records of financial interests. On the basis of its review of records and/or other information that may be available, the PHS Awarding Component may decide that a particular conflict of interest will bias the objectivity of the PHS-funded research to such an extent that further corrective action is needed or that the Institution has not managed, reduced, or eliminated the conflict of interest in accordance with this subpart. The PHS Awarding Component may determine that suspension of funding under 45 CFR 74.62 is necessary until the matter is resolved.

(c) In any case in which the HHS determines that a PHS-funded project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment has been designed, conducted, or reported by an Investigator with a conflicting interest that was not disclosed or managed as required by this subpart, the Institution must require the Investigator(s) involved to disclose the conflicting interest in each public presentation of the results of the research.

## National Science Foundation

### Award and Administration Guide – Chapter IV – Grantee Standards

Link: [http://www.nsf.gov/pubs/policydocs/pappguide/nsf09\\_1/aag\\_4.jsp](http://www.nsf.gov/pubs/policydocs/pappguide/nsf09_1/aag_4.jsp)

Full Text:

#### A. Conflict of Interest Policies

1. NSF requires each grantee institution employing more than fifty persons to maintain an appropriate written and enforced policy on conflict of interest. Guidance for development of such policies has been issued by university associations and scientific societies.

2. An institutional conflict of interest policy should require that each investigator disclose to a responsible representative of the institution all significant financial interests of the investigator (including those of the investigator's spouse and dependent children) (i) that would reasonably appear to be affected by the research or educational activities funded or proposed for funding by NSF; or (ii) in entities whose financial interests would reasonably appear to be affected by such activities.

The term "investigator" means the principal investigator, co-principal investigators/co-project directors, and any other person at the institution who is responsible for the design, conduct, or reporting of research or educational activities funded or proposed for funding by NSF.

The term "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 interest (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 the applicant institution;
- b. any ownership interests in the institution, if the institution is an applicant under the Small Business Innovation Research Program or Small Business Technology Transfer Program;
- c. income from seminars, lectures, or teaching engagements sponsored by public or non-profit entities;
- d. income from service on advisory committees or review panels for public or nonprofit entities;
- e. an equity interest that, when aggregated for the investigator and the investigator'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 5% ownership interest in any single entity; or  
f. salary, royalties or other payments that, when aggregated for the investigator and the investigator's spouse and dependent children, are not expected to exceed \$10,000 during the twelve-month period.

3. An institutional policy must ensure that investigators have provided all required financial disclosures at the time the proposal is submitted to NSF. It must also require that those financial disclosures are updated during the period of the award, either on an annual basis, or as new reportable significant financial interests are obtained.

4. An institutional policy must designate one or more persons to review financial disclosures, determine whether a conflict of interest exists, and determine what conditions or restrictions, if any, should be imposed by the institution to manage, reduce or eliminate such conflict of interest. A conflict of interest exists when the reviewer(s) reasonably determines that a significant financial interest could directly and significantly affect the design, conduct, or reporting of NSF-funded research or educational activities.

Examples of conditions or restrictions that might be imposed to manage, reduce or eliminate conflicts of interest include, but are not limited to:

- a. public disclosure of significant financial interests;
- b. monitoring of research by independent reviewers;
- c. modification of the research plan;
- d. disqualification from participation in the portion of the NSF-funded research that would be affected by significant financial interests;
- e. divestiture of significant financial interests; or
- f. severance of relationships that create conflicts.

If the reviewer(s) determines that imposing conditions or restrictions 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, then the reviewer(s) may allow the research to go forward without imposing such conditions or restrictions.

5. The institutional policy must include adequate enforcement mechanisms, and provide for sanctions where appropriate.

6. The institutional policy must include arrangements for keeping NSF's Office of the General Counsel appropriately informed if the institution finds that it is unable to satisfactorily manage a conflict of interest.

7. Institutions must maintain records of all financial disclosures and of all actions taken to resolve conflicts of interest for at least three years beyond the termination or completion of the grant to which they relate, or until the resolution of any NSF action involving those records, whichever is longer.

## **NSF Proposal Preparation Guide – January 2009 - Chapter II – C.1.e Proposal Certifications**

Link: [http://www.nsf.gov/pubs/policydocs/pappguide/nsf09\\_1/gpg\\_2.jsp](http://www.nsf.gov/pubs/policydocs/pappguide/nsf09_1/gpg_2.jsp)

Excerpted Text:

### **e. Proposal Certifications**

With the exception of the [Disclosure of Lobbying Activities \(SF LLL\)](#) identified below, the procedures for submission of the proposal certifications differ from those used with other single-copy documents. The AOR must use the "Authorized Organizational Representative function" in the FastLane System to electronically sign and submit the proposal certifications. It is the proposing organization's responsibility to assure that only properly authorized individuals sign in this capacity.<sup>13</sup>

The required proposal certifications are as follows: [Note: Only COI requirement is shown here.]

Certification Regarding Conflict of Interest: The AOR is required to complete certifications stating that the institution<sup>14</sup> has implemented and is enforcing a written policy on conflicts of interest, consistent with the provisions of AAG Chapter IV.A.; that, to the best of his/her knowledge, all financial disclosures required by the conflict of interest policy were made; and that conflicts of interest, if any, were, or prior to the institution's expenditure of any funds under the award, will be, satisfactorily managed, reduced or eliminated in accordance with the institution's conflict of interest policy. Conflicts that cannot be satisfactorily managed, reduced or eliminated must be disclosed to NSF via use of the Notifications and Requests Module in the NSF FastLane System.

## Oregon Revised Statutes

### ORS Chapter 244 – Government Ethics – Public Officers and Employees

Link: <http://www.leg.state.or.us/ors/244.html>

#### Summary of Chapter:

This ORS Chapter defines conflict of interest, potential conflict of interest, and states that no public official shall use or attempt use their official position or office to obtain financial gain or avoidance of financial detriment. Public officials include, but are not limited to all state employees.

#### ORS 244.020 – Definitions – (1, 11, and 13):

##### Full Text:

(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (11) Potential conflict of interest.

##### Full Text:

(11) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

- (a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.
- (b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.
- (c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

##### Full Text:

(13) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee, agent or otherwise, irrespective of whether the person is compensated for the services.

#### ORS 244.040 – Prohibited use of official position or office; exceptions; other prohibited actions

##### Full Text:

(1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.



- (2) Subsection (1) of this section does not apply to:
- (a) Any part of an official compensation package as determined by the public body that the public official serves.
  - (b) The receipt by a public official or a relative or member of the household of the public official of an honorarium or any other item allowed under ORS 244.042.
  - (c) Reimbursement of expenses.
  - (d) An unsolicited award for professional achievement.
  - (e) Gifts that do not exceed the limits specified in ORS 244.025 received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest in a governmental agency in which the official holds any official position or over which the official exercises any authority.
  - (f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest in a governmental agency in which the official holds any official position or over which the official exercises any authority.
  - (g) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of "gift" in ORS 244.020.
  - (h) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.
- (3) A public official may not solicit or receive, either directly or indirectly, and a person may not offer or give to any public official any pledge or promise of future employment, based on any understanding that the vote, official action or judgment of the public official would be influenced by the pledge or promise.
- (4) A public official may not attempt to further or further the personal gain of the public official through the use of confidential information gained in the course of or by reason of holding position as a public official or activities of the public official.
- (5) A person who has ceased to be a public official may not attempt to further or further the personal gain of any person through the use of confidential information gained in the course of or by reason of holding position as a public official or the activities of the person as a public official.
- (6) A person may not attempt to represent or represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner or other associate.
- (7) The provisions of this section apply regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed under ORS 244.120.

#### **ORS 244.042 – Honoraria**

Full Text:

- (1) Except as provided in subsection (3) of this section, a public official may not solicit or receive, whether directly or indirectly, honoraria for the public official or any member of the household of the public official if the honoraria are solicited or received in connection with the official duties of the public official.
- (2) Except as provided in subsection (3) of this section, a candidate for public office may not solicit or receive, whether directly or indirectly, honoraria for the candidate or any member of the household of the candidate if the honoraria are solicited or received in connection with the official duties of the public office for which the person is a candidate.
- (3) This section does not prohibit:
- (a) The solicitation or receipt of an honorarium or a certificate, plaque, commemorative token or other item with a value of \$50 or less; or
  - (b) The solicitation or receipt of an honorarium for services performed in relation to the private profession, occupation, avocation or expertise of the public official or candidate.

#### **ORS 244.047 – Financial Conflict of Interest in public contract**

Full Text:

- (1) As used in this section:
- (a) "Public body" has the meaning given that term in ORS 174.109.
  - (b) "Public contract" has the meaning given that term in ORS 279A.010.

(2) Except as provided in subsection (3) of this section, a person may not, for two years after the person ceases to hold a position as a public official, have a direct beneficial financial interest in a public contract that was authorized by:

(a) The person acting in the capacity of a public official; or

(b) A board, commission, council, bureau, committee or other governing body of a public body of which the person was a member when the contract was authorized.

(3) Subsection (2) of this section does not apply to a person who was a member of a board, commission, council, bureau, committee or other governing body of a public body when the contract was authorized, but who did not participate in the authorization of the contract.

**ORS 244.120 – Methods of handling conflicts; Legislative Assembly; judges; appointed officials; other elected officials or members of boards.**

Full Text:

(1) Except as provided in subsection (2) of this section, when met with an actual or potential conflict of interest, a public official shall:

(a) If the public official is a member of the Legislative Assembly, announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official.

(b) If the public official is a judge, remove the judge from the case giving rise to the conflict or advise the parties of the nature of the conflict.

(c) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the conflict, and request that the appointing authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

(2) An elected public official, other than a member of the Legislative Assembly, or an appointed public official serving on a board or commission, shall:

(a) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or

(b) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.

(B) If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

(3) Nothing in subsection (1) or (2) of this section requires any public official to announce a conflict of interest more than once on the occasion which the matter out of which the conflict arises is discussed or debated.

(4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.

**ORS 244.130 – Recording of notice of conflict; effect of failure to disclose conflict.**

Full Text:

(1) When a public official gives notice of an actual or potential conflict of interest, the public body as defined in ORS 174.109 that the public official serves shall record the actual or potential conflict in the official records of the public body. In addition, a notice of the actual or potential conflict and how it was disposed of may in the discretion of the public body be provided to the Oregon Government Ethics Commission within a reasonable period of time.

(2) A decision or action of any public official or any board or commission on which the public official serves or agency by which the public official is employed may not be voided by any court

solely by reason of the failure of the public official to disclose an actual or potential conflict of interest.

**ORS 351.067 – Sources of compensation for officers and employees; potential conflict of interest; reporting; rules applicable to outside employment and activities.**

Link: <http://landru.leg.state.or.us/ors/351.html>

Full Text:

(1) In carrying out its authority under ORS 351.070, the State Board of Higher Education may authorize receipt of compensation for any officer or employee of the Oregon University System from private or public resources, including, but not limited to, income from:

- (a) Consulting;
- (b) Appearances and speeches;
- (c) Intellectual property conceived, reduced to practice or originated and therefore owned within the Oregon University System;
- (d) Providing services or other valuable consideration for a private corporation, individual, or entity, whether paid in cash or in-kind, stock or other equity interest, or anything of value regardless of whether there is a licensing agreement between the Oregon University System and the private entity; and
- (e) Performing public duties paid by private organizations, including institution corporate affiliates, which augment an officer's or employee's publicly funded salary. Such income shall be authorized and received in accordance with policies and rules established by the board.

(2) The board may not authorize compensation, as defined in subsection (1) of this section, that, in the board's judgment, does not comport with the mission of the institution and the Oregon University System or substantially interferes with an officer's or employee's duties to the Oregon University System.

(3) Any compensation described and authorized under subsection (1) of this section is considered official compensation or reimbursement of expenses for purposes of ORS 244.040 and is not considered an honorarium prohibited by ORS 244.042. If authorization or receipt of the compensation creates a potential conflict of interest, the officer or employee shall report the potential conflict in writing in accordance with rules of the state board. The disclosure is a public record subject to public inspection.

(4) The state board shall adopt by rule standards governing employee outside employment and activities, including potential conflict of interest, as defined by state board rule and consistent with ORS 244.020, and the public disclosure thereof, and procedures for reporting and hearing potential or actual conflict of interest complaints.

## **Oregon Administrative Rules**

### **OAR 580-021-0025 – OUS System – Conditions of Service – Outside Employment and Activities and Conflict of Interest**

Link: [http://arcweb.sos.state.or.us/rules/OARS\\_500/OAR\\_580/580\\_021.html](http://arcweb.sos.state.or.us/rules/OARS_500/OAR_580/580_021.html)

Full Text:

(1) No full-time employee of the Department or of any of the institutions or divisions shall engage in any outside employment that substantially interferes with duties. See also IMD 4.005 and 4.010 [now at 4.111 and 4.015] Board and Institution Policy on Outside Activities and Related Compensation.

(2) Institution employees shall provide written reports to their president regarding potential conflicts of interest as defined under ORS 244.020(8) [now 11]. Other Department employees shall provide the same reports to the Chancellor. Complaints by any person regarding potential conflicts of interest may be referred for investigation to the president, Chancellor or Director of Internal Audit who shall investigate the complaint.

## **OAR 580-061-0000 OUS Procurement and Contracting Code – Code of Ethics**

Link: [http://arcweb.sos.state.or.us/rules/OARS\\_500/OAR\\_580/580\\_061.html](http://arcweb.sos.state.or.us/rules/OARS_500/OAR_580/580_061.html)

### Full Text:

(1) The following Code of Ethics will apply to Oregon University System employees in relation to chapter 580, divisions 60, 61, 62, and 63. Employees will:

- (a) Give first consideration to the objectives and policies of the Board, OUS, and the Institution;
- (b) Strive to obtain the best value for expenditures;
- (c) Fairly consider prospective Contractors insofar as state or federal statutes and institutional rules and policies require;
- (d) Conduct business in an atmosphere of good faith;
- (e) Demand honesty in representations made by prospective Contractors;
- (f) Promote competition by encouraging the participation of Oregon businesses, emerging small and minority-owned and women-owned businesses, and Qualified Rehabilitation Facilities;
- (g) Comply with the applicable provisions of ORS Chapter 244 and other applicable rules and policies on conflict of interest that may be more restrictive;
- (h) Refrain from having financial interests incompatible with the impartial, objective, and effective performance of duties. Activities that may create a conflict of interest must be addressed in accordance with the procedures outlined in the Oregon University System's Internal Management Directives and other applicable rules and policies;
- (i) Receive the written consent of the originator of proprietary ideas and designs before using them; and
- (j) Foster fair, ethical, and legal trade practices.
- (k) Execute the OUS Conflict of Interest Statement before any person may participate in the evaluation or selection of a Contractor or vendor under a Formal Procurement process.
- (L) On an annual basis, sign a statement that the employee has reviewed and will comply with the OUS Code of Ethics.

(2) This code is for the Oregon University System's internal use only and creates no obligations enforceable by Contractors, Proposers, Bidders, or other parties doing business with an Institution, nor may it be used by Contractors, Proposers, Bidders, or other parties doing business with an Institution who are challenging actions taken by an Institution or its officers, employees, or agents. This code may not be the only statement on ethics applicable to an employee.

## **Oregon University System**

**Internal Management Directive 4.005 – Repealed and Moved to 4.111**

**Internal Management Directive 4.010 – Repealed and Moved to 4.015**

**Internal Management Directive 4.111 - Board Policy on Outside Activities and Related Compensation**

Link: <http://www.ous.edu/about/polipro/files/IMD%201-08.pdf>

### Full Text:

(1) Employees may engage in outside consulting or other work so long as it does not substantially interfere with institutional obligations.

(2) "Employees," as used in this policy, means an employee hired under the authority of the Board.

(3) Laboratory and other institutional facilities and resources, including support staff and stationery, shall not be used in outside work for which the employee received remuneration unless expressly authorized by the institution. Such authorization may be included in the institution policy or as part of the approval of an employee's specific request.

(4) Remuneration received in accordance with IMD 4.011 [4.111] 4.015 from sources outside the University System shall be considered official salary, honorarium, or reimbursement of expenses for purposes of ORS 244.040. Receipt of such compensation does not have to be reported under IMD 4.015(4) or (5) unless the outside work creates a potential conflict of interest as defined in ORS 244.020(8).

### **Internal Management Directive 4.015 - Institution Policy on Outside Activities and Related Compensation**

Link: <http://www.ous.edu/about/polipro/files/IMD%201-08.pdf>

#### **Full Text:**

Each institution shall adopt policies and procedures to implement IMD 4.011 [4.111]. Such policies and procedures shall:

(1) Include appropriate measures, such as one day per week, which define faculty time available for outside activities related to the faculty member's institutional responsibilities. Outside activities unrelated to institutional responsibilities and undertaken by faculty on personal time, regardless of whether compensated, are not subject to these Board of Higher Education and institution policies. However, if the faculty member, while on personal time, engages in outside activities that create a potential conflict of interest, the faculty member must provide written disclosure thereof in accordance with (4) and (5) below.

(2) Identify the name(s) or title(s) of institutional administrator(s) assigned responsibility for reviewing and acting on requests to engage in outside activities related to the faculty member's institutional responsibilities as referenced in (1) above.

(3) Identify and describe types of outside faculty activity related to faculty institutional responsibilities and associated funding sources which the institution approves as a class(es) and which will not require review and prior approval, such as health care faculty clinical activities, services as an expert witness, and services other than those identified in IMD 4.010 [4.015] (4) and (6) below. If, however, the particular activity under the class creates a potential conflict of interest, the faculty member shall provide a written disclosure thereof to a designated supervisor in accordance with (4) and (5) herein.

(4) Require faculty to disclose to the named institutional administrator(s) in writing, and to receive prior approval on a case by-case basis, to engage in outside activities involving any or all of the following:

(a) Acceptance of compensation, or ownership of equity in the case of a private entity.

(b) Service in a line management position or participation in day-to-day operations of a private or public entity.

(c) Service in a key, continuing role in the scientific and technical activity of a private or public entity. Institutional case-by-case approval will not be required if the activity is included within the scope of an institution-defined class as established under (3) above.

(5) Require that the faculty member's written disclosure, as referenced in (4) above, fully describe the:

(a) Type of work or consulting to be provided to the named entity;

(b) Nature of the relationship (e.g., employer/employee, entity/contractor, or consultant);

(c) Anticipated time commitment;

(d) Expected benefits to the entity, faculty member, and institution;

(e) Use of institutional facilities and support personnel, if any, and method of reimbursing institution for both direct and indirect costs, if institution approves such use; and

(f) Financial arrangements pertaining to funding sources of compensation, including equity ownership and other forms of economic value provided the faculty member or any immediate member of the faculty member's family.

(6) Require the institutional administrator(s) to consider the following when reviewing written requests to engage in outside activities:

(a) Written disclosures identified in (5) above.

(b) Contributions of the relationship to the faculty member's primary obligation to the institution and its support of the academic integrity of the institution as well as the faculty member's interdepartmental relationships.

(c) Prospective non-financial benefits to the faculty member and institution.

(d) Average time commitment over an academic term, such commitment not to exceed the limits established by the institution unless the institutional administrator(s) determines that the activity provides extraordinary benefit to both the institution and the participant as a faculty member. In cases where the time limits are to be exceeded, the faculty member shall disclose the amount of time in excess of the limits, and the institutional administrator(s) shall document in writing the rationale for approving the request to exceed the limits.

(e) Assurances that the outside activity does not substantially interfere with the faculty member's instructional, research, and other related institutional responsibilities, including those to students. Special attention must be given to the intellectual property interests of students who may create and claim ownership to such property developed in the process of completing their academic programs.

(f) Appropriateness of the use of institutional facilities and support personnel, if approved, including written documentation that the full cost thereof will be reimbursed to the institution.

(7) Establish the type, nature, and extent of the information required to be reported under (2) through (6) above, which shall be made a part of a faculty member's confidential personnel record.

(8) Provide a process whereby a faculty member dissatisfied with a decision of an authorized administrator may appeal that administrator's decision to another institutional authority. That authority shall be vested with power to make a final determination relative to authorization to engage in the outside activity.

(9) Provide for the institutional president to report to the Chancellor's Office by August 31 of each year any change in institutional policy on outside activities and evidence of procedures followed in monitoring faculty and family acceptance of compensation and equity for outside activities of the faculty member.

(10) Specify appropriate sanctions against faculty who fail to comply with Board and institutional policies and procedures concerning outside activities and acceptance of related compensation and equity.

(11) Be submitted to the Chancellor's Office for review and approval prior to adoption.

**Internal Management Directive 6.205-6.255 Licensing, Patent, Educational, and Professional Materials Development, and Copyright Policies and Procedures**

Link: <http://www.ous.edu/about/polipro/files/IMD%201-08.pdf>

**Summary:**

These sections concerns the licensing, patents, educational and professional materials development, and registration of copyrights apply to all Department of Higher Education employees whose work-related assignments, regardless of location, might enable them to develop new knowledge which was conceived purposely or fortuitously. The policies also apply to other persons using institutional facilities, personnel, or other resources.

# University of Oregon

## UO Guidelines for Overload Compensation for Faculty

Link: <http://policies.uoregon.edu/ch3h.html>

### Full Text:

Purpose: To call attention to the Oregon University System directive defining overload compensation, and implementation guidelines.

### Procedure:

Overload compensation is any compensation, other than an administrative stipend, paid to a faculty member for additional services for campus sponsored addition to full-time salary.

1. The following activities are typical sources of overload compensation:
  - a.-continuing education c.-consulting
  - b.-extension service d.-seminars and similar services
2. Activities involving overload time shall not exceed more than one day in a seven day week on an average or its equivalent during the academic year or other period of appointment.
3. All overload compensation and the income and expenses of the activities for which the compensation is to be paid shall be channeled through the regular institution accounting processes.
4. Regular on-campus classes as well as time spent in support of grant and research activities shall not be allowable activities for overload compensation except under extraordinary or emergency circumstances.
5. Overload compensation will not be based on the number of students per class or any similar ratio except for correspondence or independent study courses.
6. Institution Presidents may not delegate approval of overload compensation requests below the level of a college, school or division dean or equivalent officer.
7. Overload compensation amounts will be determined by the campus President.
8. Presidents, Vice-Presidents, Deans and other equivalent level officers are not eligible for overload compensation.

## UO Potential Conflicts of Interest Policy Statement

Link: <http://policies.uoregon.edu/ch3g1.html>

### Summary:

First Issued: December 1991 and updated in 1995 and 2001, the purpose of this policy is to provide guidance on the interaction of UO employees and organizations external to the UO.

This policy describes when a disclosure is required and states that (generally) a full-time faculty member may engage in outside activities related to his or her UO responsibilities one day in each seven-day week during full-time employment as long as their obligation to the UO is not impaired. A part-time faculty is allowed a proportionate amount based upon his or her FTE. Other employees may engage in outside activities only with the permission of the employee's immediate supervisor.

This policy describes types of activities that UO employees may engage without prior review and approval. These include:

1. *Professional affiliations* – Including scholarly, professional, and philanthropic activities; service on advisory bodies or public commissions related to their academic or professional work; travel to other institutions and conferences to present lectures, lead seminars or workshops or to visit laboratories of colleagues.
2. *Limited consulting* (to assure discharge of UO obligations, five principles are applied: UO obligations are met; activities don't exceed 1-day-in-7 for 1.0 FTE; that if the engagement involves a conflict of interest, it will require review and approval; if such consulting is to aid the state in its development of its resources, industries and quality

of life, consulting and cooperation with public officials it is allowed; that UO stationery not be used in private outside work.)

3. *Outside activities unrelated to UO duties and responsibilities* and undertaken on personal time are not subject to this policy except if the faculty member, while on personal time, engages in outside activities which create a potential conflict of interest the faculty member must provide a written disclosure

The policy provides examples of outside activities that require approval:

1. acceptance of compensation from or ownership of substantial equity in an enterprise that carries on activities closely related to the UO employee's area of work
2. A line management position or participation in day-to-day management of a commercial enterprise
3. Service in a key, continuing role in a private or outside public entity
4. Declaration by Principal Investigators and other key personnel of:
  - a. significant financial interest – anything of monetary value, including salaries, payments, equity or intellectual property rights that exceed \$10,000 a year in income or more than a 5% stake from or in an enterprise where that interest may compromise, or have the appearance of compromising the conduct or reporting of the research. This extends to the researcher's spouses and dependent children.
  - b. significant personal interest – anything of monetary value including gifts, favors, consulting relationships, or other personal considerations that exceed \$10,000 a year where that interest may compromise, or have the appearance of compromising the conduct or reporting of the research. This extends to the personal interests of researcher's spouses and dependent children.

All PIs submitting a proposal through ORSA will be required to declare if the activities defined in that proposal implicate either a. or b. above. If one or both are present, they will need to file a disclosure with the VPRGS. The VPRGS will determine if these interests represent a potential conflict of interest. The VPRGS will determine if

- a. no action should be taken or
- b. the research plan should be modified or
- c. if the research should be monitored by independent reviewers.

This policy explains the process for approval:

1. submission of a written disclosure by the UO employee to his or her immediate supervisor with a request for approval (details in the policy).
2. The immediate supervisor forwards the request (with their recommendation) to the appropriate VP with a written rationale for the recommendation. If that VP is not the appropriate approving supervision, then the package is sent to the dean of the school, or college or the director of the unit, and to the VP for Research, if that is appropriate.

The policy also provides criteria for reviewing Requests for Approval and an appeals process. Finally, the policy provides language on areas of special concern, such as collaborative research with the Private Sector, relations between senior and junior faculty, and students interactions between faculty and external organizations.



## **UO Business Affairs Office**

### **Purchasing Ethics**

Link: <http://ba/ProcurementContracting/purchasingethics.htm>

#### Summary:

This states that as employees of the state of Oregon, faculty and staff of the UO must follow all of the state statutes and regulations regarding ethics and conflicts of interest.

Employees involved in purchasing activities or decisions have the responsibility to promote positive vendor relationships through impartiality in all phases of the purchasing cycle.

Employees should exercise caution and good judgment if offered a gift from a vendor. Personally accepting gifts from vendors may give the appearance of impropriety. Accepting gifts, entertainment, food, or other items of value before, during, or immediately after a purchasing process or when it may influence a purchasing decision should be avoided.

### **Doing Business with UO Employees**

Link: <http://baowww.uoregon.edu/ProcurementContracting/ethicspcs.doc>

#### Summary:

UO will not make purchases from UO employees, unless it can be clearly documented that the purchase is clearly in the best interest of the UO, results from competition and represent the best value. Regardless of dollar amount, departments should be obtaining competitive quotes or documenting sole source exemption.

If the potential purchase involves services, then an independent contractor analysis may also be required to determine the appropriate method for obtaining the services.

Additionally, no employee should have influence over the purchase, solicitation, award, payment nor expenditure approval of a product or service, if their action would financially impact the employee, the employee's relative, or the employee's relative's business.

## **UO Faculty Handbook 2007 (Archived)**

### **Chapter III – General Conditions of Employment – Conflicts of Interest**

Link: <http://academicaffairs.uoregon.edu/content/chapter-iii#>

#### Full Text:

The University of Oregon recognizes that participation in professional activities and consultation by faculty with outside organizations can be valuable, contributing to the knowledge and experience of the faculty member and strengthening the university. However, the university requires that a faculty member's efforts be directed toward her or his responsibilities as a member of the faculty, be they teaching, research, artistic development and scholarship, or academic management and administration. For full-time faculty, outside employment or consulting assignments for salary or honorarium are permitted under the following conditions:

- a) if the outside employment does not exceed one day in seven during the academic year,
- b) if the employment does not interfere with the faculty member's ability to fulfill all university duties,
- c) if the employment in no way discredits the university,
- d) if use of university services and facilities is not involved, and
- e) if the faculty member does not appear to be an agent of the university. Faculty members must have the approval of the supervising dean or department head before undertaking outside employment.

Conflicts of interest arise not only when a faculty member's outside activities begin to detract from her or his primary responsibilities to the institution; they also can arise when these outside activities create for the faculty member a business relationship or the real possibility of a business relationship with the university. A personal or monetary interest in university purchasing and procurement is a likely conflict of interest. Conflicts may also arise in the distribution of information to which a faculty member has special access.

Faculty clearing proposals through the Office of Research Services and Administration must declare significant financial and personal interests that do not compromise or appear to compromise the integrity of research conduct and the reporting of results.

Significant financial and personal interests include but are not limited to any salaries, payments, equity (shares of ownership), gifts or payments (consulting fees, honoraria), or intellectual property rights (e.g., receipt of royalties from patents and licenses) valued at more than \$10,000 a year in income, or represent more than a 5 percent stake in an enterprise that may compromise, or appear to compromise, the integrity of research conduct and reporting of results. Included are the holdings of principal investigators and key research personnel (those responsible for the conduct and reporting of research results), their spouses, and dependent children.

When a university employee has doubts about the suitability of certain actions or relationships, he or she should consult with knowledgeable individuals in the department, school, or in the senior administration. The vice provost for research can advise in circumstances of potential conflicts arising in the area of research and scholarship.