

University of Houston
Policy on Conflict of Interest for Academic Staff

Introductory Note

In recent years, the issue of conflict of interest has become increasingly important. University faculty and some staff members have taken on new and different functions in addition to the traditional roles of teaching, research, and public service. Spin-off companies transferring technology developed in the laboratory, extensive consultative activities, and various types of public service involvement are encouraged by both federal and state agencies, and by the University as necessary for the public good. Governmental agencies, becoming more concerned about the extent and type of these activities as they relate to funded and proposed research and scholarly activities of faculty and some staff have issued regulations which require universities to develop, publish, and enforce institutional policies which comply with certain federal mandates. Key in these policies is the requirement for regular, timely, and full disclosure of actual or potential conflicts of interest as they relate to significant financial interests which could reasonably be seen by an impartial observer as effecting the design, conduct, or reporting of research or educational activities funded or proposed for funding by an external sponsor.

DEFINITIONS

Academic Staff Member

An academic staff member means the principal investigator, co-principal investigator, and any other person at the University who is responsible for the design, conduct, or reporting of research or educational activities. This definition includes anyone who is paid by or whose work is supported by a grant or contract whether the support is internal or external (e.g., graduate students, postdoctoral fellows, but not technicians or clerical employees) and includes the immediate family of the academic staff member.

Executive Unit Head

The executive unit head means the chair, or equivalent of other units such as the director of a center or institute, in whom primary administrative authority resides. If a conflict exists for an executive unit head, the term refers to the head of the next level of administrative authority in the normal reporting line.

Immediate Family

Immediate family means the academic staff member's spouse and dependent children as defined by the IRS.

Significant Financial Interest

Significant financial interest means anything of monetary value, including, but not limited to salary, 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:

- Salary, royalties or other remuneration from the University;
- Any ownership interest in the institution, if the institution is an applicant under the Small Business Innovation Research Program or Small Business Technology Transfer Program;
- Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
- Income from service on advisory committees or review panels for public or nonprofit entities;
- 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
- 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 next twelve-month period.

GENERAL PRINCIPLES

Conflict of Interest

A conflict of interest may take various forms but exists when there is a divergence between an individual's private interests and his or her professional obligations to the University such that an independent observer might reasonably question whether the individual's professional actions or decisions might be influenced by considerations of gain, financial or otherwise, for the individual or his or her family members or for other parties. A conflict of interest depends on the situation, and not on the character or the actions of the individual.

Conflicts of interest are common and practically unavoidable in a modern research university. Conflicts of interest can arise out of the fact that a mission of the University is to promote public good by fostering the transfer of knowledge gained through University research and scholarship to the private sector. Two important means of accomplishing this mission include consulting and the commercialization of technologies derived from University research. It is appropriate that individuals be rewarded for their participation in these activities through consulting fees, sharing in royalties resulting from the commercialization of their work, ownership and/or other associations with spin-off companies. It is wrong, however, for an individual's actions or decisions, made in the course of his or her University activities, to be determined by considerations of personal financial gain. Such behavior calls into question the professional objectivity and ethics of the individual and reflects negatively on both the institution and the external sponsor of the research activity.

Members of the academic community should conduct their affairs so as to avoid or minimize conflicts of interest, and must respond appropriately when apparent conflicts of interest arise. To that end, the purposes of this policy are to educate individuals about situations that generate conflicts of interest, to provide means for individuals and the University to manage, reduce, or eliminate actual or potential conflicts of interest, and to describe situations that are prohibited. Every member of the academic community has an obligation to become familiar with, and abide by, the provisions of this policy. If a situation arises which raises questions of conflict of interest academic staff are urged to discuss the situation with their department chair, college dean, or the Vice President for Research.

STATEMENT OF POLICY

Policy

Prior to the University entering into any of the arrangements listed below, the involved academic staff member must have submitted to the chair of his/her department or the executive unit head a complete written disclosure. This disclosure should include 1) his or her current or pending relationship with the outside enterprise or entity in which the academic staff member has a significant financial interest, 2) the relationship of the proposed University activity to the enterprise or entity, and 3) the means by which the academic staff member proposes to address actual or potential conflicts of interest which arise from his or her, including immediate family members, dual University and enterprise or entity roles.

- A) Project proposals where any of the involved academic staff members (or immediate family members) have employment or consulting arrangements or significant financial interests in an enterprise or entity whose interests might be affected by the outcome of the proposed project.
- B) Project proposals in which any of the involved academic staff members (or immediate family members) have employment or consulting arrangements or significant financial interests in the proposed sponsor, subcontractor, vendor, or collaborator with the proposed project.
- C) Gifts, including cash or property, which will be under the control, or will directly support the teaching or research activities of an academic staff member from an enterprise or entity in which that academic staff member (or immediate family members) has an employment or consulting arrangement or significant financial interests.
- D) University technology licensing arrangements with an enterprise or entity for which the inventor (or immediate family members) has employment or consulting arrangement or significant financial interests.

Common sense must prevail in the interpretation of these provisions. That is, if a reasonable, disinterested person would question the relationship, it should be disclosed and approval sought for the proposed arrangement.

Certification of Compliance

On an annual basis, all academic staff members must certify to their department chair or executive unit head their knowledge of and compliance with the financial disclosure policy of the University as outlined herein. (A sample certification form is at the end of this document.) The certification form also requires the same information about members of the academic staff member's immediate family. Academic staff members must supply this information for confidential review by the University. At minimum, disclosures must include the information found on the sample certification form at the end of this document. Individual colleges of the University may design their own forms, including more, but not less, information than that requested below.

In addition, academic staff members must disclose to their department chair or executive unit head on an ad hoc basis new situations in which significant financial interests are obtained and which may raise questions of conflict of interest as soon as such situations become known to the academic staff member.

The department chair or the executive unit head (if he/she does not report to the Vice President for Research) will review the certification form and forward to the Division of Research or to the Dean of the appropriate college as indicated on the certification form.

The dean or executive unit head (if he/she reports to the Vice President for Research) will review the financial disclosure, determine whether an actual or potential 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. An actual or potential conflict of interest exists when the reviewer(s) reasonably determines that a significant financial interest could affect the design, conduct, or reporting of the research or educational activities in question.

Examples of conditions or restrictions that might be imposed to manage, reduce, or eliminate actual or potential conflicts of interest include:

- Public disclosure of significant financial interests;
- Monitoring of research by independent reviewers;
- Modification of the research plan;
- Disqualification from participation in that portion of the research that would be affected by the significant financial interests;
- Divestiture of the significant financial interests; or
- Severance of relationships that create actual or potential conflicts.

If the dean or executive unit head 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 dean or executive unit head may recommend that the research go forward without imposing such conditions or restrictions. Such a recommendation will be forwarded to the Vice President for Research, who shall be advised by a committee of faculty, for his or her review and approval. However, in any case any significant financial interest shall be publicly disclosed.

Following review and approval of any proposed arrangements by the dean or the executive unit head, the academic staff member's disclosure and the dean's findings and recommendation shall be submitted to the Vice President for Research, who shall be advised by a committee of faculty, for his or her review and approval.

Records of all financial disclosures and of all actions taken to resolve actual or potential conflicts of interest will be maintained in the Division of Research until at least 3 years beyond the termination or completion of the sponsored project award to which they relate, or the resolution of any government action involving those records.

Failure of any academic staff member to comply with this policy shall constitute grounds for disciplinary action.

PROCEDURAL DETAIL

Responsibilities of Academic Deans and Executive Unit Heads

Each department chair, dean, executive unit head and the Vice President for Research is responsible for the timely review of annual certifications as well as ad hoc disclosure reports. The dean shall use his or her discretion and knowledge of local conditions to set up a system that works well for the college. Each college's plans for distribution, receipt, processing, and review of disclosure forms shall be submitted to and approved by the Vice President for Research. However, individual colleges may have more, but not less, restrictive internal policies than those set forth by the University.

College deans and executive unit heads will file their own disclosures and certifications of compliance with the Vice President for Research.

Responsibilities of the Vice President for Research

The Vice President for Research is the University officer responsible for interpreting and overseeing implementation of and compliance with this Policy. He or she is responsible for reviewing and approving each college's mechanisms for implementing this Policy.

The Vice President for Research is responsible for keeping the appropriate external funding agency informed if the institution finds it is unable to satisfactorily manage an actual or potential conflict of interest for any activity where that agency requires that it be notified in such instances.

Appeals of Decisions Made by the Vice President for Research

Should an academic staff member wish to appeal a decision made by the Vice President for Research, he or she may present the appeal to the President of the University of Houston.

Implementation

This policy as written is based on the final regulations issued by the National Science Foundation and the Public Health Service effective October 1, 1995.

All academic staff members will be required to submit an annual disclosure (see attached) beginning September 1995 and when submitting a research proposal to one of the agencies which has mandated financial disclosure and to respond to the specific requirements related to that proposal submission as required by that agency. Faculty submitting proposals to the NSF or PHS (including NIH) on or after October 1, 1995, will be required to complete and submit a disclosure prior to submission of proposals.