



Idaho State University

POLICIES AND PROCEDURES

Conflicts of Interest and Commitment

ISUPP 1130

POLICY INFORMATION

Policy Section: *Governance/Legal*

Policy Title: *Conflicts of Interest and Commitment*

Responsible Executive (RE): *General Counsel*

Sponsoring Organization (SO): *Office of General Counsel*

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I. INTRODUCTION

The University mission is enhanced by the sustained, active interaction of members of the University community with business, government, not-for-profit groups, professional societies, academic institutions, and other individuals and organizations. These many interactions and activities can, however, create the potential for Conflicts of Interest or Commitment in which University Employees' external activities or interests could influence—or could appear to influence—the manner or extent to which those individuals carry out their University responsibilities. Such influences—real or apparent—may undermine public and professional confidence in the University, diminish the University's ability to accomplish its mission, and violate state or federal law.

Conflicts of Interest and Conflicts of Commitment can be complex and nuanced. As such, this policy outlines the University's approach to identifying, evaluating, and managing potential conflicts. This policy is intended to enable Employees to recognize actual, apparent, or potential Conflicts of Interest or Commitment and act to protect themselves and the University from inappropriate influence or bias through disclosure, evaluation, management, and if required, elimination of the conflict. In determining whether a Conflict of Interest or Commitment exists, an important consideration is whether an independent observer might reasonably conclude the Employee's professional actions or decisions are influenced by considerations of personal gain, financial or otherwise. This policy does not attempt to illustrate all possible situations that require

disclosure. Employees are expected to be vigilant and ethical in all dealings to ensure potential conflicts are addressed quickly and appropriately.

II. DEFINITIONS

- A. **Conflict of Interest:** A Conflict of Interest arises when an Employee has a personal, financial, or professional interest that could, or could appear to, compromise or affect the Employee's professional judgment in exercising their duties to the University. Conflicts of Interest may include when an Employee:
1. is in a position to influence the University's business, administrative, academic, or other decisions in ways that could result in personal or Family Member benefits or gains;
 2. acts in opposition to the interests of the University, including by competing directly with the University, or diverting opportunities the Employee knows or should know the University is or may be pursuing; and/or
 3. uses their University position for personal or Family Member benefit or gain at the expense of the University or otherwise in violation of this or other University policies.
- B. **Conflict of Commitment:** A Conflict of Commitment usually involves an issue of time allocation that creates a risk of an Employee dividing loyalty between the University and an outside entity or when an Employee's non-University activities could, or could appear to, unreasonably interfere with the Employee's loyalty or commitment to their University duties and responsibilities. Such interference can include, but is not limited to, performance of outside activities (i) during work hours or assigned schedule for the University, or (ii) to a degree that renders the Employee incapable of satisfactorily performing their responsibilities to the University. Conflicts of Commitment may occur even though an Employee's outside activities involve comparatively little time.
- C. **Consulting:** providing expert knowledge, advice, or service to an entity or person in a professional or technical field in exchange for compensation or other benefits. Consulting services are often desirable because of the Employee's relationship to the University and typically involve one's specialized knowledge, skills, or expertise to offer insights, recommendations, or solutions related to a specific field, industry, or domain. There are many types of Consulting relationships, and the precise form may vary. However, in general, when Consulting, an individual agrees to use their professional capabilities to further the agenda of a third party in return for an immediate or prospective gain.
- D. **Employee:** any individual employed by the University, including full- and part-time faculty; staff; physician, dental, and pharmacy residents; student Employees; temporary Employees; and any other category enumerated in University policy.

- E. **Family Member:** any person with whom an Employee has a familial or guardianship relationship, including a spouse, domestic partner, parent, guardian, step-parent, child, step-child, son-in-law or daughter-in-law, brother, sister, aunt, uncle, niece, nephew, first-cousin, grandparent, grandchild, brother-in-law or sister-in-law, or any persons living in the same household.
- F. **Financial Interest:** anything of monetary value received from an outside entity, including but not limited to payments for services, income, royalties, equity interests, benefits, or potential gain that an Employee holds in a particular financial arrangement, transaction, or decision whether or not such value is readily discernible.
- G. **Gift:** anything of value given or received without return payment. A Gift may include but is not limited to cash or cash equivalents, meals, tickets, travel or hotel expenses, entertainment, charitable contributions, or donations.
- H. **Professional Service:** any services rendered by an individual to persons or organizations external to the University that are related to but not part of the Employee's University responsibilities. These activities may be paid or unpaid, part-time or full-time, voluntary relationships, positions, or appointments at any entity other than the University, including for-profit, not-for-profit, governmental, domestic or international organizations.

III. POLICY STATEMENT

A. **Conflicts of Interest or Commitment**

The University is committed to fulfilling its mission with integrity, in full compliance with state and federal ethics and conflicts of interest laws and regulations and in accordance with Idaho State Board of Education policies. All Employees have an obligation to fulfill their commitments of time and intellectual energy in support of the University's mission, commensurate with the terms of their appointments. Additionally, all Employees shall endeavor to be free of actual or apparent Conflicts of Interest or Conflicts of Commitment at all times.

B. **Private Consulting and Outside Employment**

Employees may engage in Consulting and outside employment activities so long as such activities do not violate the requirements of this policy. If Consulting or outside employment results in a conflict between University employment and an outside interest, the Employee must act in the best interest of the University. In all private Consulting engagements, the client must be informed that the Employee is acting as a private consultant, that the University is in no way party to the contract, and that the University is neither liable nor responsible for the performance thereof. Additionally, identification of the

University as the Employee's employer and of the Employee's position at the University is permitted, provided that such identification is not used in a manner that implies sponsorship or endorsement by the University.

C. Use of University Resources for Personal Gain

University resources (beyond incidental use) shall not be used for personal gain or commercial activities, including but not limited to Consulting or outside employment. No University personnel, laboratories, space, services, equipment, or intellectual property may be used in connection with Consulting or outside employment without an approved conflict management plan and prior written authorization from the Chief Financial Officer or their designee, which may require fair market compensation for use of such resources.

D. Gifts

Employees may not accept or solicit any Gift, favor, reward, or service that might influence or appear to influence the Employee in the discharge of the Employee's official duties or that the Employee knows or has reasonable cause to believe is being offered with the intent to influence their conduct or reward the Employee for official action taken. Notwithstanding this prohibition, Employees may accept trivial benefits and Gifts that are not in excess of \$50.00 provided that such benefit or Gift involves no substantial risk of undermining the Employee's impartiality.

IV. AUTHORITY AND RESPONSIBILITIES

A. All Employees

All Employees must conduct their affairs so as to avoid or minimize Conflicts of Interest or Commitment and must respond appropriately when conflicts arise. Unless exempted by this policy, Employees must complete and submit an annual conflict disclosure form whether or not the Employee has any situation that presents an actual, potential, or apparent conflict to disclose. Employees must also disclose on an ad hoc basis to their supervisor any current or prospective situations that may constitute an actual, potential, or apparent Conflict of Interest or Commitment.

B. Supervisors

Supervisors must ensure Employees in their reporting line are familiar with this policy. Supervisors must review annual and ad hoc disclosures, evaluate the nature and extent of potential conflicts, draft appropriate management plans and, if necessary, consult with other University officials for further review and discussion prior to plan approval.

Supervisors also have an ongoing obligation to ensure conflict management plans are appropriately followed.

C. Vice Presidents

Vice Presidents are responsible for ensuring supervisors are aware of their obligations under this policy. Vice Presidents must also review and approve all conflict management plans within their line of authority.

D. Chief Compliance Officer

The Chief Compliance Officer or designee is responsible for implementing procedures for annual and ad hoc conflict disclosures; providing guidelines and resources for disclosure review; assisting supervisors and Vice Presidents with the review of disclosures as requested; assisting supervisors and Vice Presidents with the development of management plans that reduce, eliminate, or manage identified conflicts; and convening conflict review committees when needed.

E. Conflict Review Committee

A conflict review committee may be established by the Chief Compliance Officer or the President. The role of this committee includes assisting the Chief Compliance Officer by reviewing conflict disclosures, determining when a conflict exists, providing technical expertise, recommending appropriate actions to eliminate, reduce, or manage such conflicts; and providing advice, when requested, to the President when considering an appeal. Members of the committee should include Employees or others who have relevant experience or training to assess the conflict and steps to manage the conflict.

V. CONFLICT DISCLOSURE

The key mechanism for implementation of this policy is disclosure. Disclosure allows the University and the Employee to determine whether a situation presents a Conflict of Interest or Commitment and take appropriate action based on the determination. All Employees, unless exempted by this policy, must annually complete and submit a Conflict of Interest/Conflict of Commitment Disclosure Report. In addition, all Employees, including those exempted from the annual disclosure requirement, are required to make ad hoc disclosures of any actual, potential, or apparent Conflicts of Interest or Commitment whenever they occur.

A. Annual Disclosure Requirement

1. Annually, all Employees, unless exempted, must complete and submit a Conflict of Interest/Conflict of Commitment Disclosure Report in accordance with the reporting procedure established by the Chief Compliance Officer. The purpose of the annual

disclosure is to solicit information that allows the University to determine whether an Employee has an actual, potential, or apparent conflict as defined in this policy.

2. The Employee's completion of the annual disclosure certifies that:
 - a. The Employee does not have any interests or outside commitments which require disclosure;
 - b. The Employee has a potential Conflict of Interest or Conflict of Commitment which has been disclosed previously and there has been no change which requires an updated disclosure; or
 - c. The Employee has new interests which may create a Conflict of Interest or Conflict of Commitment and requires disclosure.
3. General Exemptions to Annual Disclosure Requirement
 - a. The following groups of Employees are exempt from the annual disclosure requirement:
 - i. adjunct faculty members
 - ii. student Employees
 - iii. temporary or special project non-classified Employees
 - b. Employees who are not required to complete an annual disclosure must still submit a timely ad hoc disclosure if they have an actual, apparent, or potential conflict to report.

B. Ad Hoc Disclosure Requirement

Employees must also disclose to their supervisor on an ad hoc basis, within thirty (30) days of becoming known, current or prospective situations that may constitute an actual, potential, or apparent conflict. Following disclosure, the Employee and supervisor must complete the disclosure review and management process as outlined in this policy prior to the Employee engaging in an activity that may be deemed an actual, apparent, or potential conflict.

C. Outside Activities Related to Licensure, Regulatory, or Accreditation Requirements

1. Some Employees, particularly health sciences faculty, may be required to engage in clinical or other outside employment activities as part of licensure, regulatory, or professional program accreditation requirements. These activities may involve working in healthcare facilities or other settings for the purpose of maintaining clinical placement sites for students and related activities and may result in financial compensation for such work. In cases where faculty members are fulfilling these

professional obligations, their involvement shall be deemed in compliance with this policy provided that the following conditions are met:

- a. The Employee's involvement is in accordance with any applicable licensing, regulatory, or accreditation guidelines;
 - b. The Employee discloses their participation to and receives authorization from their supervisor prior to engaging in such activities; and
 - c. The Employee's University duties are not compromised by their involvement in external activities related to licensure requirements.
2. Colleges may, with review and approval by the Chief Compliance Officer, create procedures that specifically address any such licensure, regulatory, or accreditation requirements related to outside clinical work and how those requirements are operationalized by Employees within the college.

D. Examples of Conflicts of Interest that Require Disclosure

1. **Related Outside Interest:** an Employee or Family Member's personal or Financial Interest in an entity engaged in University business or research activities. This may include but is not limited to Consulting arrangements, research activities, University contracts and agreements, or other business relationships.
2. **Related Purchase/Sale Interest:** an Employee or Family Member's Financial Interest in an entity involved in a University purchase or sale whenever the Employee is in a position to recommend or approve the purchase or sale.
 - a. Requiring or recommending the Employee's own textbook or other teaching aids, materials, software, equipment, or the like to be used in connection with University instructional programs from which the Employee receives income may be permissible with disclosure and an approved conflict management plan.
3. **Position with a Related Interest:** the holding of an executive or officer position in, or serving as a member of, the board of directors of an entity engaged in University business or research activities.
4. **Inventor Equity Interest and/or Business Participation:** participation as an employee, officer, board member, or owner in an entity which has, or wishes to have, rights to intellectual property invented or created in accordance with ISUPP 7010 *Intellectual Property*.
5. **Favoritism and Relationships in the Workplace:** the direct participation in a University decision which would or could appear to involve a direct benefit or detriment to a Family Member, including decisions regarding hiring, selection, promotion, wages, hours, or other conditions of employment.

6. **Outside Supervisory Interest:** financial, business, or employment arrangements with students or direct reports to the Employee in Consulting, Professional Service, or commercial activities outside the University.

E. Examples of Conflicts of Commitment that Require Disclosure

1. **Professional Service or Outside Commitments:** Professional Service or outside commitments, whether paid or unpaid, that interfere or have the potential to interfere with the Employee's University responsibilities.
 - a. This disclosure requirement does not include membership in or service to professional associations; reasonable attendance at professional meetings, courses, and workshops; membership on professional review or advisory panels; the giving of occasional presentations or participation in conferences; reviewing or editing scholarly publications; service to accreditation bodies; and other activities reasonably related to an Employee's University duties, even when compensated, as long as they do not conflict or interfere with the timely performance of primary University duties.
2. **Private Consulting and Outside Employment**
 - a. **Outside Academic Appointments:** academic appointments, including visiting appointments during an approved leave of absence or brief transitional appointments. Employees may not have an academic appointment at another institution unless approved by the Vice President for Academic Affairs/Provost. Serving as an affiliate faculty at another institution to serve on a graduate or thesis committee doesn't require disclosure under this policy so long as the time spent on such outside activities does not compromise time spent on University duties.
 - b. **Foreign Government or Entity Affiliations:** In many instances, federal law and guidance require the University to report Gifts and other funds received from foreign (i.e., non-U.S.) sources. Various federal agencies and grant terms also require researchers and other University personnel to report all types of support received from, or professional relationships with, foreign persons or entities. For these reasons, while these activities may be deemed allowable following disclosure, Employees must disclose foreign support and affiliations, including participation in a foreign government-sponsored talent program, receiving funding from any foreign government or entity, or receiving any courtesy or honorary appointments that are held at foreign institutions. Serving as an external evaluator for doctoral dissertations at foreign institutions is generally permitted under this policy so long as the time spent on such outside activities does not compromise time spent on University duties.

VI. DISCLOSURE REVIEW AND MANAGEMENT

A. Initial Review

1. Disclosures required under this policy must be made in writing to an Employee's supervisor in a form prescribed by the Chief Compliance Officer. Supervisors must promptly review the disclosure to determine whether an actual, potential, or apparent conflict exists and whether interests conflicting with this policy must be eliminated or addressed through a management plan.
2. As part of their review, supervisors shall:
 - a. review and document the disclosure for real, apparent, or potential conflicts;
 - b. if necessary to evaluate the presence or absence of a conflict, request and document additional details;
 - c. determine whether detailed information must be elevated for review by additional University officials, including Deans, Vice Presidents, or the Chief Compliance Officer;
 - d. meet with the Employee to discuss how to resolve the identified conflict; and
 - e. recommend and initiate action to resolve the actual, potential, or apparent conflict.

B. Conflict Management Plan

1. If a conflict exists and is deemed manageable, the supervisor will work with the Employee and other University officials to develop a written conflict management plan to manage, reduce, or eliminate the actual, potential, or apparent conflict. The purpose of the plan is to:
 - a. accurately describe the actual or apparent conflict;
 - b. create explicit agreements to protect against inappropriate influence or bias;
 - c. facilitate appropriate oversight; and,
 - d. protect the Employee, students, third parties, and the University.
2. Conflict management plans must be approved by the Employee's supervisor and applicable Vice President.

C. Additional Disclosure or Management Requirements

The process for disclosing and managing conflicts as described in this policy are the minimum steps that must be taken by an Employee. It is possible that a particular situation or activity may call for specific steps beyond those outlined here for proper disclosure and/or management of a conflict. Particular units and activities of ISU may also have

specific conflict of interest policies or guidelines approved by the Chief Compliance Officer. Those specific policies may in certain cases be more restrictive than this University-wide policy. This policy provides a framework for those specific additional policies and guidelines.

VII. APPEAL PROCEDURE

If an Employee believes the conditions or restrictions in a conflict management plan are ineffective or unduly burdensome, the Employee may appeal the decision in writing to the President. The President's decision on the appeal shall be the final decision of the University. If the President was involved in the original decision being appealed, then the President's original decision is the final decision of the University.

VIII. RECORD MAINTENANCE

Supervisors shall maintain all ad hoc disclosures and conflict management plan records in accordance with procedures established by the Chief Compliance Officer. Records will be maintained in a manner to protect sensitive and confidential information.

IX. NONCOMPLIANCE

The University expects all Employees to comply fully and promptly with all requirements of this policy. Violations of this policy may include, but are not limited to:

- A. intentionally filing an incomplete, erroneous, or misleading disclosure form;
- B. failure to provide additional information as required;
- C. failure to provide a disclosure as required by this policy; or
- D. failure to follow a conflict management plan.

A violation of this policy may be the basis for discipline up to and including termination. Such discipline will be in accordance with the policies and procedures applicable to the particular Employee.