

POLICY REGARDING CONFLICTS OF INTEREST HEALTH SCIENCES CENTER

(Amended, OU Board of Regents, 6/26/2012)

I. STATEMENT OF GENERAL POLICY

The University of Oklahoma Health Sciences Center is a public institution committed to the mission of teaching; research and creative/scholarly activity; professional and University service; and public outreach. To these ends, the University strives to maintain an atmosphere that promotes free, open, and objective scholarly inquiry and compatible professional interactions while recognizing its obligations and limitations as an arm of the public.

Conflicts of interest are not uncommon in a modern university. The University actively recruits and recognizes individuals with creative abilities who can contribute to interactions not only in the classroom and laboratory but also in the business community. There are many opportunities to develop relationships with outside companies that enhance one's professional competency, render valuable service to the community, and benefit the individual and University. Such interactions and relationships can create conflicts of commitment or interest that must be governed in a manner consistent with institutional and public values. The existence of a conflict is often not clear-cut; however, an undisclosed or unmanaged conflict can irreparably damage reputations that may have taken a lifetime to establish and impair the University's standing. Accordingly, University Employees must be watchful that their relationships and activities do not create, or appear to create, such conflicts.

A Conflict of Interest refers to situations in which financial or other personal considerations may compromise an Employee's professional judgment in carrying out his/her University responsibilities such as teaching, research, contract administration, or purchasing. When used in this policy, the term Conflict of Interest ("Conflict") means (1) an actual conflict of interest exists, or (2) the potential exists for a conflict of interest to occur, or (3) there appears to be a conflict of interest; i.e., if made public, it could discredit the Employee or the University. The term also includes a Conflict of Commitment. Employees are expected to know and comply with the applicable laws and policies related to their appointment as University/State Employees.

The purpose of this policy is to provide procedures and guidance for identifying, disclosing, and managing Conflicts of Interest to assure that such Conflicts do not improperly affect the activities or professional conduct of the University or its Employees. Appropriate disclosure, review, and management provide protection from legal liability and ethical criticism for Employees and the University.

See Appendix A for Definitions (capitalized terms) used throughout this policy.

II. GOVERNING AUTHORITY

Governing authority for this policy is derived from state and federal laws, rules, and regulations. This policy overlaps with, but does not replace, University Employee responsibilities, under such governing authority which, in some instances, will include additional prohibitions, penalties, and reporting duties. Compliance with state and federal laws, rules, and regulations does not necessarily eliminate a Conflict, which still must be addressed in accordance with this policy.

Unless otherwise permitted by law or University policy, University Employees may not:

- A. Disclose confidential and/or proprietary information acquired through their University employment to anyone not entitled to receive it, nor use such information for personal gain or benefit; e.g., providing a Company with early or exclusive access to Research results, except in compliance with a sponsored research agreement or grant;
- B. Use their University position to obtain special privileges or compensation;

- C. Knowingly seek or accept anything of value intended to or that may be perceived to affect their judgment in the performance of their University responsibilities;
- D. Have any interests, engage in any business or professional activities, or incur any obligations that conflict, appear to conflict, or have the potential to conflict with the performance of their University duties;
- E. Influence or appear to influence University financial, Research, or other decisions for procuring materials or services from Companies in ways that lead or may lead to personal gain for themselves or their Families;
- F. Use their University position to market or endorse the goods or services of a Company; or
- G. Participate in Research or technology transfer activities that compromise or appear to compromise objectivity and judgment in the design, conduct, or reporting of the Research.

Nothing in this policy prohibits any academic or administrative unit from establishing supplementary Conflicts of Interest policies and/or procedures that are more restrictive than those included in this policy.

See Appendices A, B, C, D, and G for select references to governing authority and policies.

III. IDENTIFYING CONFLICTS OF INTEREST

Identification and disclosure of Conflicts of Interest can protect the Employee and the University from damage to reputations and professional activities. Employees may contact their supervisor, Appropriate Vice President, or the Office of Legal Counsel with questions regarding Conflicts.

The conditions, circumstances, and relationships described in this section could result in Conflicts. Each Employee is required to identify and disclose all Conflicts relating to, but not limited to, each of the categories below.

A. FINANCIAL CONFLICTS OF INTEREST

While most disclosures of Financial Interests will probably be deemed *de minimus* Conflicts, Financial Interests above certain thresholds will automatically be deemed by law or regulation to be Significant Financial Interests and will require closer scrutiny, and possible elimination, mitigation, and/or management. The thresholds are as follows:

1. Interests that when aggregated over the next twelve months for the Employee and the Employee's spouse/domestic partner and children, meet both of the following tests:
 - (a) Exceeds \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, unless the sponsoring agency has more stringent/restrictive financial requirements or thresholds, in which case those will prevail, or
 - (b) Represents more than a five percent ownership interest in any single entity.
2. Interests that exceed \$1,000 in dividends or similar interests derived during the preceding calendar year.
3. Interests that involve the ownership or promise of stock or stock options or similar interests of any amount in a privately-held or Spin-Off Company.
4. Annual income for professional or consulting activity from a Company in excess of 25% of the Employee's Institutional Base Salary.
5. Certain reimbursed or sponsored travel disclosures required by sponsoring agency(ies).

B. USE OF UNIVERSITY RESOURCES

University Resources are acquired and maintained to carry out the education, research, and public service missions of the University. Except for insignificant and incidental use, an Employee may not use University Resources for non-University purposes.

1. Facilities, Equipment, Real and Personal Property. Employees using University facilities are required to comply with the University's Facility Use policy (<http://admin-scb.ouhsc.edu/policy/#124>). See also **Section III. F. 7** of this policy.
2. Intellectual Property. Except as otherwise provided by the University's Intellectual Property Policy, all intellectual property (i.e., creative works, trademarks, discoveries, technology, and inventions) made or conceived either in the course and/or scope of employment for the University or substantially through the use of facilities or funds provided by or through the University is owned by the University and managed by the University's Office of Technology Development.
3. Human Resources. Human resources must not be exploited in the course of an Employee's activities. Human resources include students, postdoctoral fellows, residents, faculty, and staff. It is especially important to be alert for the misuse of human resources since it often results from innocent or unconscious action.

C. USE OF OFFICIAL POSITION

State law prohibits any state officers or state Employees from using their official positions to obtain private benefits or to solicit or secure special privileges, exemptions, or compensation for themselves or others, except as allowed by law. For example, University Employees may not:

1. Consult, serve on advisory boards, or participate in speaking engagements except under written agreement between the Company and University. Employees must ensure that time and effort spent on such activities is approved by their Unit Head and/or Dean and do not conflict with or affect the performance of their University responsibilities. See Conflict of Commitment (**Section III.D.**).
2. Use their official University position or the University's name for personal gain or private purposes for themselves or their Families.
3. Use their official position to market, promote, or endorse the goods or services of any Company.
4. Market, promote, or endorse goods or services in a manner that could be perceived by the public as the University's marketing, promoting, or endorsing those goods or services.
5. Contract for services or purchases with their Families or with companies owned in whole or in part by themselves or their Families. Provided, however, exceptions may be granted in unusual circumstances if approved in advance by the Appropriate Vice President and are subject to University Purchasing rules. Requests for an exception must contain a detailed description of the proposed activity and a compelling justification for the provision of services or products by the Employee's Family or related Company. The relationship between the Employee and Family or Company must clearly be disclosed.

D. CONFLICT OF COMMITMENT

University Employees owe their primary commitment of time and intellectual energies to the University.

University faculty and staff may not have combined commitments (sponsored and non-sponsored) in excess of 100% professional effort. Faculty or staff who have University responsibilities in addition to those committed on sponsored programs, including but not limited to teaching, administration, or clinical activities, must reserve the appropriate amount of effort as agreed upon with the Unit Head and/or Dean for those commitments and, therefore, may not commit 100% paid or unpaid effort to sponsored grants and/or contracts.

See: <http://grants2.nih.gov/grants/guide/notice-files/NOT-OD-03-029.html>.

Employees must not allow professional activities to detract from their primary allegiance to the University. Employees must maintain a significant presence on campus consistent with the scope of their appointment. Full-time employees must not have significant non-University responsibilities and may not act as the principal investigator on sponsored projects outside the University, except as provided in this policy.

Employees with less than full-time appointments may engage in individual consulting relationships and other employment, to the degree that those activities do not interfere or conflict with their obligations to the University and occur outside their University appointment.

Each employee must disclose any Conflict of Commitment as each new activity arises and on an annual basis in accordance with this policy. An employee intending to engage in an activity that may present a Conflict of Commitment must submit a written request to the Unit Head, Dean, and/or the Appropriate Vice President, as appropriate, for review of the activity, approval, and implementation of a Management Plan as appropriate.

E. INSTITUTIONAL CONFLICTS OF INTEREST

Institutional Conflicts of Interest are managed under the University's Institutional Conflicts of Interest Policy. See www.ou.edu.

F. RELATIONSHIPS WITH COMPANIES

Generally, while employees may accept positions and hold Financial Interests in privately held, for-profit Companies, relationships with (a) Companies that are doing business with the University or (b) Companies in which Employees have a direct financial stake create Conflicts that require disclosure, assessment, and management. Employees may also be prohibited from involvement in particular business arrangements by governing law.

Employees with an ownership interest in Companies should be aware of the following state ethics rule: No Employee shall sell, offer to sell, or cause to be sold; rent; or lease (either as an individual or through any Company in which the Employee holds a Financial Interest) goods, services, buildings or property to the University. Exceptions to this rule are: 1) contracts for goods or services valued at less than five thousand dollars (\$5,000), and 2) contracts entered into after public notice and in response to a University bid or request for proposal (RFP).

1. Equity and Other Financial Interests

Employees who propose to become involved with a Company in which they have a Financial Interest, including but not limited to Equity, must promptly disclose the interest to the University. Employees having income from or Equity in such Companies should recognize that their ability to conduct Research sponsored by that Company may be restricted because of a Conflicts created by their income from or Equity in the Company.

When intellectual property is produced by an Employee in the performance of his/her official University duties or through the use of University Resources, the Employee may receive income or

Equity under contract through the University from a Company commercializing the intellectual property.

2. **Membership on Boards**

Service on a Company's Board of Directors or Advisory Board is normally acceptable; however, when the Company proposes to do or is doing business with the University, Conflicts arise because fiduciary obligations to the Company may conflict with primary obligations to the University to act in its best interests. Notice to and approval of Board membership by the Appropriate Vice President and recusal from Board matters involving University interests or resignation from the Board are required.

Employees may be permitted to serve on the Board of a Company that has licensed University technology if the service is disclosed in advance to and with approval of the Appropriate Vice President. An employee who is allowed to assume a Board position should recognize that his or her ability to conduct Research that is sponsored by the Company may be restricted because of the Conflict created by the Board position. Employees who assume Board positions must recuse themselves from all Board decisions that involve the University.

3. **Service as an Operating Officer**

An Employee cannot serve as an Operating Officer of any Company in which the University owns a Financial Interest or with which there is a Conflict with the Employee's University position. If an Employee wishes to serve as an Operating Officer, under such circumstances, he/she may request a leave of absence from the University for a specified period of time, in accordance with policies in the [Faculty Handbook](#).

4. **Service as a Scientific Officer**

An Employee may serve as a Scientific Officer for a Company with the prior written permission of the Unit Head, Dean, and Appropriate Vice President. Such service must be through a written agreement between the University and the Company. The term of service as a Scientific Officer should ordinarily be for one year, renewable with written approval of the Employee's Unit Head, Dean, and the Appropriate Vice President.

5. **Consulting Relationships and Multiple Activities**

All consulting activities of Employees must be conducted through written agreements between the University and the Company. Where such activities are performed for a Company in which the Employee holds Equity; receives compensation; serves as a Scientific Officer; has a Board seat; has multiple professional relationships with the Company (e.g., consulting and research agreements); or, as permitted under this policy, serves as an Operating Officer; any consulting relationship with the Company must be disclosed and receive prior review and written approval from the Employee's Unit Head, Dean, and the Appropriate Vice President.

6. **Support of Students and Trainees by Companies**

The progress and academic standing of students and trainees must never be compromised. Employees supervising students and trainees must inform them in writing of the source(s) of their funding support, disposition of intellectual property, management of proprietary information, and handling of publication rights prior to assigning the students or trainees to a Research or training project supported by a Company.

A student's academic program cannot be supported by a Company in which the supervising Employee has Equity, serves on a Board, or serves as an Operating Officer or Scientific Officer, unless specifically approved in writing by the Dean of the Graduate College and the Senior Vice President and Provost. If approved, support (e.g., stipends, tuition, salary, scholarships) for students and trainees provided by Companies must comply with all of the following provisions:

- (a) The College department, program, or unit approves the recipient;
- (b) The funds are provided to the University;
- (c) The recipient is not subject to any implicit or explicit expectation of providing or foregoing something in return for the support; i.e., a "quid pro quo"; and
- (d) The Company does not withhold or unreasonably limit publication of the student's research.

University trainees and students may not be employed by any Company to conduct Research that overlaps with their University training or academic program. In addition, Graduate College policy does not allow a faculty member with supervisory responsibility for an Employee to serve as mentor for the same individual as a student; therefore, any proposed employment of a trainee or student by a Company to work on Company Research that does not overlap with their training or academic program in which the mentor has Equity, serves on a Board, or serves as an Operating Officer or Scientific Officer of the Company must be approved in advance by the Dean of the Graduate College and the Senior Vice President and Provost.

7. **Company Use of University Equipment and Space**

An Employee may not use or allocate University equipment or space for personal or non-University purposes, except as provided by University policy.

Limited use of University space and designated equipment by a Company may be permitted in accordance with governing law following review and approval by the Appropriate Vice President. The terms and conditions of such use shall be reduced to writing and signed by the Appropriate Vice President and the Company in accordance with University policy.

8. **Funding for Sponsored Research and Service Activities**

Employees may not act as a principal investigator on sponsored projects outside the University, except as allowed by Board of Regents' policy.

There is a presumption against accepting funding from a Company in which (i) the University or the Employee has a Financial Interest, (ii) the Employee serves on the Board of the Company, or (iii) the Employee serves as an Operating Officer or Scientific Officer

The presumption is applied as follows:

When a Company proposes to contract for Research or services to be conducted by such an Employee or anyone under the direction of that Employee and the Research or services involve neither human research participants nor validation testing, the presumption against accepting funding may be rebutted if, in the judgment of the Appropriate Vice President, one of the following is met and a Management Plan is in place:

- (a) The Employee's influence over the Company's decisions and the possible commercial or private benefit from the Research or services are negligible.

- (b) The Research or service is essential to maintain the continuity of an effort related to University licensed intellectual property during a short interval of time, normally not greater than one year.
- (c) The Employee's relationship with the Company does not involve additional relationships with the Company such as consulting or service agreements or Board membership, so that the likelihood of any distortion of the Research or service outcome is minimal.

Employees supervising students and trainees shall inform them in writing of the source(s) of funds, disposition of intellectual property, management of proprietary information, and handling of publication rights prior to assigning the students or trainees to a Research or training project.

The University may not conduct testing to validate to the public an invention created at or by the University.

9. **SBIR / STTR Programs**

Under Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs, small businesses are encouraged to partner with a research university to perform innovative research and/or to assist in technology transfer from the university. A University Employee may participate in the SBIR/STTR project only through a contract between the University and the Company that outlines the Employee's responsibilities and/or University benefits or with written authorization by the Dean and Vice President for Research.

SBIR/STTR programs can produce a variety of complex situations with regard to Conflicts issues. Therefore, Employees are required to comply with the following:

1. A University Employee with any role on an SBIR/STTR project must submit the entire grant application (University's portion and small business's portion) to the Office of Research Administration (ORA) to enable the appropriate reviews to take place before submission of the application to the funding agency.
2. The principal investigator for the small business SBIR/STTR application and the principal investigator for the subcontract to the University must be different individuals.
3. If a University Employee or his/her Family has a Financial Interest in a Company, that individual may not bring Research into his/her University laboratory through an SBIR or STTR contract involving that Company, except through a contract between the Company and the University.
4. The Company must provide evidence of availability of functioning space in which Research activities can and will take place prior to submission of the grant application.
5. The Employee must notify the Vice President for Research and/or ORA in writing upon receipt of an SBIR/STTR award. If the Employee is serving as the principal investigator of the small business concern on an SBIR grant he/she must also provide documentation of approval from the appropriate Dean to reduce his/her University appointment to commit the required minimum 51% effort as the SBIR principal investigator of the small business concern.
6. Prior to start of the project, a contract between the University and the Company must be executed outlining the Employee's responsibilities and/or University benefits or the Employee must obtain written authorization by the Dean and the Vice President for Research

to proceed. There must be a clear distinction between the work done by or on behalf of the Company and the work performed by or on behalf of the University.

7. The Employee must work through his/her college/department to reduce his/her appointment if serving as the principal investigator on an SBIR award.

G. FINANCIAL INTERESTS INVOLVING HUMAN RESEARCH PARTICIPANTS

All Financial Interests of an Employee serving as an investigator in Research involving human research participants must be disclosed and managed under this policy and the University's Human Research Participant Protection (HRPP) policy See <http://www.ouhsc.edu/irb>.

An investigator with a Conflict in Research involving human research participants may conduct that Research only with an HRPP-approved Management Plan. However, the Vice President for Research has final authority to disallow Research determined to be contrary to the best interests of the University.

IV. DISCLOSING CONFLICTS OF INTEREST

Employees must disclose a Conflict whenever a new activity or relationship arises and also on an annual basis in accordance with this policy. To ensure all required disclosures are made under this policy Employees should contact the Unit Head, Dean, or Appropriate Vice President if there is any question whether an activity or relationship requires disclosure. All disclosures will be forwarded to Internal Audit by ORA or the Employee's supervisor. Failure to disclose Conflicts can result in administrative sanctions, severe sanctions, and/or civil and criminal penalties.

A. WHAT TO DISCLOSE

When used in this policy, the term Conflict of Interest ("Conflict") means (1) an actual conflict of interest exists, or (2) the potential exists for a conflict of interest to occur, or (3) there appears to be a conflict of interest; i.e., if made public, it could discredit the Employee or the University. Disclosure of Conflicts is required for the following in accordance with this policy.

1. Financial Conflicts of Interest above the specified thresholds
2. Conflicts of Commitment
3. Relationships with Companies
 - (a) Equity and other Financial Interests
 - (b) Board membership
 - (c) Service as an Operating Officer
 - (d) Service as a Scientific Officer
 - (e) Consulting relationships with Companies
 - (f) Multiple professional relationships with Companies
 - (g) Company support of students and trainees
 - (h) Company use of University equipment and/or space
 - (i) Sponsored research support from Companies in which the Employee or University has a Significant Financial Interest
 - (j) Compensation for professional services to a Company
 - (k) Financial Interests involving human subjects research

Although all possible required scenarios cannot be itemized here, the following are examples of circumstances that do require disclosure under this policy:

1. Participating in University Research on a technology owned, licensed, or contractually obligated to a Company with which the Employee or his/her Family has a Financial Interest.

2. Receipt of University Research support (whether in dollars or in kind) from a Company with which the Employee or his/her Family has a Financial Interest.
3. Receipt of royalties on products undergoing Research or testing under the supervision or control of the Employee.
4. Service on a board of directors or scientific advisory board of, or executive position with, a Company from which the Employee, Employee's Family, or a Company associated with the Employee or his/her Family receives sponsored research support.
5. Receiving funds, gifts, or any compensation from a Company that is sponsoring an Employee's Research, for activities or purposes unrelated to the actual costs of performing that Research.
6. Assigning to fellows and/or students, tasks related to an Employee's involvement with a Company.
7. Purchasing equipment, services, or supplies for Research from a Company with which the Employee, the Employee's Family, or a Company associated with the Employee or his/her Family has a Financial Interest.
8. Receipt of any non-royalty payments or entitlements to payments in connection with the Research that are not directly related to the reasonable costs of the Research (as specified in a research agreement between the sponsor and the University).

In addition, in all publications and presentations Employees must always disclose Financial Interests in any Company that supports Research being reported.

B. WHEN TO DISCLOSE

Disclosure is required with:

1. Each new and renewal proposal, grant application, and contract submitted to the Office of Research Administration (ORA).
2. Each new or modified activity or relationship with a Company (i.e., license agreement with Spin-Off Company).
3. Each new circumstance, situation, or activity that is not associated with an ORA submission and is a Conflict of Interest.

The Employee's Unit Head and Dean shall review and discuss the disclosure with the Employee as necessary. In those instances in which the Expanded Disclosure Form is required, the Unit Head and Dean will forward the Expanded Disclosure Form and written recommendations regarding the elimination, mitigation, and/or management of any identified Conflict(s) to the Appropriate Vice President for review and final decision on how to proceed. The Appropriate Vice President may consult with others, such as a committee appointed for that purpose.

The Employee shall be notified in writing of the decision, including any requirements for immediate action and plans for continued monitoring of the Conflict.

C. HOW TO DISCLOSE

All disclosures are to be made on the "Conflicts of Interest Disclosure Form" and if required per the disclosure form instruction on the "Expanded Conflicts of Interest Disclosure Form". The Conflicts of Interest

Disclosure Form is incorporated into the Office of Research Administration Routing Forms for all submissions to ORA. Non-ORA related disclosures are made on these forms and submitted to the Appropriate Vice President.

See the Office of Research Administration website (<http://research.ouhsc.edu>) for both disclosure forms which contain specific instructions.

V. ELIMINATING, MITIGATING, OR MANAGING CONFLICTS OF INTEREST

After a Conflict has been identified and disclosed, the Appropriate Vice President shall develop a written Management Plan for eliminating, mitigating, or managing the Conflict, which may include, but is not limited to:

- A. Full internal disclosure and annual updates on University disclosure forms;
- B. Public disclosure;
- C. Disclosure to individuals or entities with relevant interests such as institutional committees, research participants, journals, and data safety monitoring boards;
- D. Modification of the activity;
- E. Divestiture of financial interests of the Employee and/or his/her Family;
- F. Reduction of involvement or severance of relationships that create the Conflict;
- G. Alteration of participation in all or a portion of the activity;
- H. Transferring securities to an independent financial manager or blind trust or limiting the timing of sales or distributions;
- I. Oversight of activity by an appropriate supervisor or independent reviewer;
- J. Termination of student or post-doctoral fellow involvement in the activity;
- K. Independent clinical review of the appropriateness of clinical care given to research participants, if applicable;
- L. Monitoring the informed consent process.

After implementation of a Management Plan and commencement of the activity or relationship, the Appropriate Vice President will review the effectiveness of the Plan as often as deemed necessary, but not less frequently than every twelve months. If, during the conduct of the activity, the Appropriate Vice President determines that the Conflict has not been properly managed or has become unmanageable under the Plan, he/she will then, among other options, review the activity and, as necessary, refine the Plan accordingly and/or require a new disclosure. If an outside funding agency requires notification of the Conflict, the Appropriate Vice President will notify the agency in accordance with agency requirements.

For activities with Companies in which the Employee has Equity or serves as an Officer or on the Board, the Management Plan must comply with **Section III. F.**, Relationships with Companies, of this policy.

VI. SANCTIONS

University sanctions may include, without restriction, reprimand, restitution, loss of pay, suspension, or dismissal. Persons who violate this policy also may be subject to civil and criminal penalties for violations of state or federal law; e.g., civil penalties for willful violations of state laws may reach \$50,000 or more per violation.

Allegations against an Employee for breach of this policy should be reported to the Appropriate Vice President for review and action. In the event a violation of this policy also constitutes a breach of any other University policy, the Senior Vice President and Provost, in consultation with the Appropriate Vice President, shall determine which policy shall govern.

(Regents, 9-26-95, 3-25-10, 6-26-12)

VII. APPENDICES

- A. Definitions
- B. Federal Regulations and Guidance Regarding Financial Conflicts of Interest
- C. State Government Ethics Commission Rules Governing the Ethics and Conflicts of Interest for the Conduct of State Officers and Employees
- D. Provost's Memo Regarding Promotional Agreements for Private Industry (11-11-04)
- E. Tips for Avoiding Conflicts of Interest
- F. Questions and Answers
- G. Other University Policies Which May Relate to Conflicts of Interests

APPENDIX A

DEFINITIONS

Appropriate Vice President: The vice president with authority over the unit or activity in which the Conflict of Interest has been identified or his/her designee. For example, if the disclosure regards a research activity, the Vice President for Research will provide oversight, regardless of where the individual is employed within the University. If the activity is not research-related, the vice president with authority over the unit or activity will provide oversight.

Board: Board of Directors or Advisory Board.

Company: Any entity, including a Spin-Off Company, other than the Board of Regents of the University of Oklahoma.

Compensation: All remuneration or other things of value received in payment for services rendered, such as salary, gifts, stocks, favors, or other items of value.

Conflict of Commitment: Time or effort devoted to professional activities that may adversely affect or interfere with an Employee's primary University responsibilities and obligations.

Conflict(s) of Interest (Conflict): Refers to situations in which financial or other personal considerations may compromise an Employee's professional judgment in carrying out his/her University responsibilities such as teaching, research, contract administration, or purchasing. When used in this policy, the term Conflict of Interest means (1) an actual conflict of interest exists, or (2) the potential exists for a conflict of interest to occur, or (3) there appears to be a conflict of interest; i.e., if made public, it could discredit the Employee or the University. The term also includes a Conflict of Commitment.

Employee: Any person possessing a full- or part-time faculty or staff appointment at the University. For the purposes of this policy, Employee also includes adjunct faculty, postdoctoral fellows, residents, and volunteers. In addition, graduate and undergraduate students, whether or not paid, who work on grants or contracts are considered Employees for the purposes of this policy.

Equity: Ownership interest in a Company, such as stock and stock options.

Family: Includes any individual who is a spouse/domestic partner, parent, child, stepparent, stepchild, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild of an Employee or a member of the Employee's household.

Financial Interest: Anything of monetary value including, but not limited to, Equity.

Gift: Anything of value to the extent that consideration of equal or greater value is not received in exchange, as set forth in the State Ethics Commission Rules Governing the Ethical Conduct of State Officers and Employees.

Institutional Base Salary: The annual guaranteed compensation paid by the University for an Employee's appointment, whether that individual's time is spent on research, teaching, patient care, and/or other University activities.

Investigator: For the purposes of this policy, means *the Principal Investigator and any person listed by the Principal Investigator as responsible for the design, conduct, or reporting of their sponsored program(s)*. These individuals are listed at the time of proposal submission. Normally, all senior research personnel should be listed as "Investigators." All of the following should be considered, to the extent they are responsible for the design, conduct, or reporting of the sponsored program: professorial faculty, research associates, emeritus faculty, research collaborators, visiting scientists, individuals with courtesy appointments. The term "Investigator" does not commonly apply to OUHSC departmental grant administrators or to the financial reporting staff of sponsored programs.

Management Plan: Written plan to manage, mitigate, or eliminate a disclosed Conflict of Interest.

Operating Officer: An executive of a Company (with or without salary); e.g., Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, President, Vice-President.

Public Health Service (PHS): 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.

Research: A systematic, intensive study intended to increase knowledge or understanding of the subject studied, a systematic study specifically directed toward applying new knowledge to meet a recognized need, or a systematic application of knowledge to the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements. Also termed "research and development."

Scientific Officer: The person responsible for conceiving, evaluating, and/or executing Research for a Company (with or without salary).

Senior Vice President and Provost: The chief executive academic and administrative officer of the University or his/her designee.

Significant Financial Interest: Financial interests above a certain threshold:

- A. Interests that when aggregated over the next twelve months for the Employee and the Employee's spouse/domestic partner and children, meet either of the following tests:
 - (i) Exceeds \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, or
 - (ii) Represents more than a five percent ownership interest in any single entity.
- B. Interests that exceed \$1,000 in dividends derived during the preceding calendar year.
- C. Interests that involve the ownership or promise of stock or stock options of any amount in a privately-held or Spin-Off Company.
- D. Annual income for professional or consulting service from a Company in excess of 25% of the Employee's Institutional Base Salary.

Spin-Off Company: A Company that is organized to develop and/or commercialize specific University intellectual property. Spin-Off Companies are typically privately held, for-profit Companies with licenses to develop and/or commercialize University intellectual property created by University Employees and in which those Employees often own some or all of the Company.

Unit Head: An Employee's supervisor, such as his/her Department Chair, Center Director, or Dean. Section Chief is not considered Unit Head.

University: The University of Oklahoma Health Sciences Center.

University Resources: All University facilities, equipment, real and personal property, intellectual property, and human resources.

APPENDIX B

FEDERAL REGULATIONS AND GUIDANCE REGARDING FINANCIAL CONFLICTS OF INTEREST

42 CFR Part 50.601-607, Subpart F - Responsibility of Applicants for Promoting Objectivity in Research for which PHS Funding is Sought

45CFR Part 94.1 - Responsible Prospective Contractors

21 CFR Part 54 – Financial Disclosure by Clinical Investigators

NIH Guide – Objectivity in Research

<http://grants2.nih.gov/grants/guide/notice-files/not95-179.html>

FDA "Guidance: Financial Disclosure by Clinical Investigators" (March 20, 2001)

<http://www.fda.gov/oc/guidance/financialdis.html>

NIH Guide - Financial Conflicts of Interest and Research Objectivity: Issues for Investigators and Institutional Review Boards, June 5, 2000

<http://grants.nih.gov/grants/guide/notice-files/NOT-OD-00-040.html>

OHRP Draft Interim Guidance - Financial Relationships in Clinical Research: Issues for Institutions, Clinical Investigators, and IRBs to Consider When Dealing with Issues of Financial Interests and Human Subject Protection

<http://www.hhs.gov/ohrp/nhrpac/mtg12-00/finguid.htm>

NIH Guide Notice (12/06/2004) - Reminder of Financial Conflict of Interest Requirements for All NIH-Supported Institutions.

<http://grants.nih.gov/grants/guide/notice-files/NOT-OD-05-013.html>

Protecting Subjects, Preserving Trust, Promoting Progress: Policy and Guidelines for the Oversight of Individual Financial Interests in Human Subjects Research.

<http://www.aamc.org/research/coi/firstreport.pdf>.

This first report of the AAMC Task Force on Financial Conflicts of Interest in Clinical Research provides guidance related to individual financial interests in human subjects research.

Protecting Subjects, Preserving Trust, Promoting Progress II: Principles and Recommendations for Oversight of an Institution's Financial Interests in Human Subjects Research. <http://www.aamc.org/research/coi/2002coireport.pdf>.





This second report of the AAMC Task Force offers a conceptual framework for assessing institutional conflicts of interest and a set of specific recommendations for the oversight of certain financial interest in human subjects research. The guidelines highlight areas that, in the view of the AAMC's Task Force, are especially problematic and must therefore receive close scrutiny.

APPENDIX C

STATE GOVERNMENT ETHICS COMMISSION RULES GOVERNING THE ETHICS AND CONFLICTS OF INTEREST FOR THE CONDUCT OF STATE OFFICERS AND EMPLOYEES

Reference: Article XXIX of the Oklahoma Constitution, Chapter 64, Appendix: Title 257. Ethics Commission (Section 257:20-1-13 of the Rules of the Ethics Commission, 74 O.S. Supp. 2007, Ch. 62, App.)

The following rules and standards may be amended by the Legislature from time to time so to find the latest version you should either consult the latest copy of the Oklahoma State Statutes or contact the University Office of Legal Counsel.

-  Oklahoma Statutes Citationized
 -  Title 74. State Government
 -  Chapter 62 Appendix - Title 257. Ethics Commission
 -  Article Chapter 20

Standard 257:20-1-1

General Purpose and Authority

- (a) The rules of this chapter have been adopted for the purpose of complying with the provisions of the Oklahoma Constitution, Article XXIX, Section 3 (B). The Ethics Commission finds that the proper operation of state government requires:
 - (1) that a state officer or state employee be independent and impartial;
 - (2) that government policy and decisions be made through the established processes of state government;
 - (3) that a state officer or state employee not use state office to obtain private benefits;
 - (4) that a state officer or state employee avoid action which creates the appearance of using state office to obtain a private or inappropriate benefit; and
 - (5) that the public have confidence in the integrity of its government and state officers and state employees.
- (b) It is the intent of the Ethics Commission:
 - (1) to protect against conflicts of interest and establish standards of conduct of elective officers and state employees in situations where conflicts may exist;
 - (2) to attract those citizens best qualified to serve. Thus the rules against conflicts of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve. State officers should not be denied the opportunity, available to all other citizens, to acquire and retain private economic interests except when such interests conflict with the responsibility of such officers to the public;
 - (3) to discourage state officers and state employees from acting upon a private or business interest in the performance of a public duty;

- (4) to develop public confidence in persons seeking or holding state office or employment, to enhance the dignity of state government, and to make it attractive to citizens who are motivated to public service;
- (5) that state officers and state employees shall exercise their powers and prerogatives without prejudice or favoritism.

Standard 257:20-1-2

Buying or Selling State Employment or Appointments to State Office

- (a) Candidates for state office, state officers, and state employees shall not, directly or indirectly, solicit, receive or agree to receive anything of value, or campaign contributions, for agreeing to appoint, appointing or procuring the appointment of another person to any state office or agreeing to employ, employing or procuring the employment of another person in any position as a state employee.
- (b) Nothing in Subsection (a) of this section shall be construed to include matters within the purview of the Oklahoma Personnel Act, Sections 840 et seq. and 841 et seq. of Title 74 of the Oklahoma Statutes.

Standard 257:20-1-3

Accountability

- (a) All state officers and all state employees:
 - (1) shall support, obey, and defend the Constitution and laws of the State of Oklahoma; and
 - (2) shall not knowingly receive, directly or indirectly, any money or other valuable thing, for the performance or nonperformance of any act or duty pertaining to his or her office, other than the compensation allowed by law.
- (b) Nothing in Subsection (a) of this section shall be construed to include matters within the purview of the Oklahoma Personnel Act, Sections 840 et seq. and 841 et seq. of Title 74 of the Oklahoma Statutes.

Standard 257:20-1-4

Misuse of Office

- (a) No state officer or state employee shall use his or her official position to solicit or secure special privileges, exemptions or compensation for himself, herself or others, except in the performance of his or her duties or as may be allowed by law. Such prohibited activity, except as provided by statute, shall not include:
 - (1) writing letters or orally communicating recommendations for hiring, reclassifying, terminating or promoting a state employee; or
 - (2) an employee of an institution within The Oklahoma State System of Higher Education receiving income from ownership interest in a technology or other intellectual property or in a business enterprise commercializing the technology or other intellectual property, or receiving income as a consultant, adviser, or employee of such business enterprise, when such technology or other intellectual property is the result of research conducted by the employee in the performance of his or her duties on behalf of the institution or involving the authorized use of the facilities, equipment, or services of the institution.
- (b) No state officer or state employee, except in the performance of his or her duties, shall disclose or offer to disclose confidential information acquired by reason of his or her official position to any person, group or others not entitled to receive such confidential information, nor shall he or she use such information for his or her personal gain or benefit.

- (c) No state officer or state employee shall:
- (1) receive or solicit any compensation that would impair his or her independence of judgment for his or her services as an officer or employee of any state agency, from any source other than the state, unless otherwise provided by law; or
 - (2) accept or solicit other employment which would impair his or her independence of judgment in the performance of his or her public duties.

Provided, the activities prohibited by this subsection shall not include an employee of an institution within The Oklahoma State System of Higher Education receiving income from ownership interest in a technology or other intellectual property or in a business enterprise commercializing the technology or other intellectual property, or receiving income as a consultant, adviser, or employee of such business enterprise, when such technology or other intellectual property is the result of research conducted by the employee in the performance of his or her duties on behalf of the institution or the authorized use of the facilities or services of the institution.

- (d) No legislator or statewide elective officer shall be employed by or receive any commission, fee, or other compensation from the state, except:
- (1) the compensation and allowance for expenses provided by law to such legislator or statewide elective officer;
 - (2) compensation from serving in the Oklahoma National Guard or the Oklahoma State Guard; or
 - (3) income from government pension or retirement plans.

Standard 257:20-1-5

Ownership Prohibited by Certain State Officers in Certain Government Securities

No state officer of a governmental entity shall own any interest in any bond, obligation or security issued by or in the name of such governmental entity, unless such interest is a part of a mutual fund or similar security.

Standard 257:20-1-6

Representation by State Officers and State Employees

- (a) A statewide elective officer shall not receive or agree to receive compensation for representing or assisting any person or business in any transaction involving the state; or represent another person for a fee before any state department, agency, board or commission. The provisions of this subsection shall not:
1. apply to the practice of law before any court; or
 2. preclude a statewide elective officer from acting on behalf of a constituent to determine the status of a matter before a state department, agency, board, commission, institution or instrumentality without accepting compensation therefor.
- (b) A legislator shall not receive or agree to receive compensation for representing or assisting any person or business in any transaction involving the state; or represent another person, firm, corporation or entity for a fee before any state department, agency, board or commission. The provisions of this subsection shall not:
1. apply to the practice of law before any court; or

2. preclude a member of the Legislature from acting on behalf of a constituent to determine the status of a matter before a state department, agency, board, commission, institution or instrumentality without accepting compensation therefor.
- (c) A state officer or state employee shall not represent another person as an attorney in any matter before the Commission.
- (d) A state officer or state employee shall not represent another person before the governmental entity the state officer or state employee serves.
- (e) These restrictions shall not apply to the following:
1. purely ministerial matters which do not require discretion on the part of the entity;
 2. representation by a state officer or state employee in the course of the officer's or employee's official duties;
 3. self-representation by the state officer or state employee;
 4. representation by the state officer or state employee in matters arising out of or rules promulgated pursuant to the Oklahoma Personnel Act; or
 5. representation by the state officer or state employee in a grievance before an institution of the Oklahoma State System of Higher Education so long as such representation is consistent with the rules relating to such grievances.
- (f) The restrictions set forth in this section do not apply if the state officer or state employee is testifying under oath to facts that are within the individual's knowledge, or as an expert witness who does not accept compensation other than regularly provided for by law or rule for subpoenaed witnesses.

Standard 257:20-1-7

Votes, Deliberations, and Discussions by Legislators or Statewide Elective Officers

- (a) A legislator or statewide elective officer shall not introduce or cause to have introduced, request the introduction of, promote, or vote on any legislation if the statewide elective officer or legislator or a child, adopted child, step-child or spouse of the officer or legislator or a business or entity with which the legislator or officer or a member of the immediate family of the legislator or officer is associated has:
- (1) a pecuniary interest in; or
 - (2) a reasonably foreseeable benefit from;
- the legislation. A reasonably foreseeable benefit includes detriment to a business competitor to the legislator or statewide elective officer, to a business competitor of a member of the immediate family of the legislator or officer, or to a business competitor of a business or entity with which the legislator or officer or child, adopted child, step-child or spouse of the legislator or officer is associated.
- (b) A legislator or statewide elective officer may introduce or cause to have introduced, request the introduction of, promote, or vote on legislation if the only pecuniary interest or reasonably foreseeable benefit that may accrue to the legislator or officer, child, adopted child, step-child or spouse of the legislator or officer, or business or entity with which a legislator or officer or a child, adopted child, step-child or spouse of a legislator or officer is associated is incidental to the legislator's or officer's, child's, adopted child's, step-child's, or spouse's or business or entity's position, or which accrues to the legislator or officer, child, adopted child, step-child or spouse, of the legislator or officer, or business or entity as a member of a

profession, occupation, or large class, whichever is applicable, to no significantly greater extent than the pecuniary interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.

- (c) Nothing in this subsection shall allow a legislator or a member of the immediate family of a legislator, a statewide elective officer, or a business or entity with which the legislator or statewide elective officer is associated to contract with a governmental entity except as provided in Subsection (b) of Section 10 of this chapter.

Standard 257:20-1-8

Votes, Deliberations, and Discussions by Public Members

- (a) A public member shall not participate in the discussion on, vote on, influence, or attempt to influence an official action of the governmental entity the public member serves on if the public member or a member of the immediate family of the public member or a business or entity with which the public member or a member of the immediate family of the public member is associated, has:

- (1) a pecuniary interest in; or
- (2) a reasonably foreseeable benefit from;

the matter under consideration by the governmental entity of which the public member is a member. A reasonably foreseeable benefit includes detriment to a business competitor of the public member, to a business competitor of a member of the immediate family of a public member or to a business competitor of a business or entity with which the public member or a member of the immediate family of the public member is associated. The public member's abstention must be recorded in the governmental entity's minutes.

- (b) A public member may participate in the discussion on, vote on, or influence or attempt to influence an official action if the only pecuniary interest or reasonably foreseeable benefit that may accrue to the public member or a member of the immediate family of a public member or business or entity with which the public member or member of the immediate family of the public member is associated is incidental to the public member's, immediate family member's or business or entity's position, or which accrues to the public member, immediate family member or business or entity as a member of a profession, occupation, or large class, whichever is applicable, to no significantly greater extent than the pecuniary interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.
- (c) Nothing in this section shall allow a public member or a member of the immediate family of the public member or a business or entity with which the public member or a member of the immediate family of the public member is associated to contract with the governmental entity over which the public member has jurisdiction.

Standard 257:20-1-9

Restraints on Solicitation or Acceptance of Anything of Value – Disclosure

- (a) Influence of official act, fraud or official duty. No state officer and no state employee shall, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for the state officer or employee or for any other person or entity, in return for being:

- (1) influenced in the performance of an official act;
- (2) influenced to commit, aid in committing, collude in, or allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or

- (3) induced to perform or fail to perform an act in violation of the state officer's or state employee's official duty.
- (b) Soliciting individually or on behalf of a regulatory governmental entity prohibited. No state officer and no state employee shall, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive or agree to receive anything of value individually or for or on behalf of a governmental entity from a business entity, its employees, officers or board members, or a person who has greater than a ten percent (10%) interest in such entity if the rates, charges, prices or fees charged by the business entity are subject to regulation by the governmental entity which the officer or employee serves. This provision does not apply to a campaign contribution properly received and reported, which is exempt from the definition of anything of value in Section 2 of Chapter 1 of this title, or to anything of value accepted on behalf of the state of Oklahoma pursuant to Subsection (e) of this section.
- (c) Calendar year limits on things of value.
 - (1) Elective officers. No elective officer, or an immediate family member of an elective officer shall, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive things of value in a calendar year which, in the aggregate, are valued at more than three hundred dollars (\$300); and
 - (2) Other state officers and state employees. Except for an elective officer, no state officer, state employee or an immediate family member of such state officer or state employee shall, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive or agree to receive things of value in a calendar year which, in the aggregate, are valued at more than one hundred dollars (\$100):

from a person who the state officer or state employee knows or should know:

- (A) is a lobbyist or lobbyist principal, provided that the following shall not be subject to this subsection:
 - (i) things of value received as a result of or arising out of employment by, or doing business with, a lobbyist or lobbyist principal; and
 - (ii) things of value received from any director, stockholder, partner, agent, affiliate, member, employee or officer of a lobbyist principal if the donor is excepted in subparagraph (D) of Paragraph (2) from the definition of "anything of value" in Section 2 of Chapter 1 of this title, or if there exists between the recipient and the donor a close personal relationship of long standing in which the mutual exchange of gifts on special occasions, such as holidays or anniversaries, has become customary;
- (B) is seeking to do business or doing business with the governmental entity of which the state officer's or state employee's office or employment is a part; or
- (C) has an economic interest in actions or matters before or affecting the governmental entity of which the state officer's or state employee's office or employment is a part.

A thing or things of value given by a lobbyist; the lobbyist principal or lobbyist principals by whom the lobbyist is employed or retained; or a stockholder, partner, agent, affiliate, member, employee or officer of the lobbyist principal or lobbyist principals by whom the lobbyist is employed or retained are aggregated for purposes of the disclosure threshold and calendar year limits, regardless of how the thing or things of value are funded. If more than one lobbyist is retained or employed by a lobbyist principal, the disclosure and calendar year limits of the first lobbyist to register on behalf of the lobbyist principal for a calendar year are aggregated with each additional lobbyist employed or retained by the same lobbyist principal.

- (d) Prohibition versus limit--Exception. Nothing in Subsection (c) shall allow a state officer or state employee to accept anything of value in violation of Subsection (a) of this section. Subsection (c) shall not apply to public members when things of value are received but are not given as a result of the public member's status as a public member.
- (e) Exceptions for state officers and employees of judicial branch and corporations. Nothing in this section shall allow:
- (1) a judicial officer, juror, referee, arbitrator or umpire to accept anything of value from a corporation or any other person, knowing that person to be a party in interest or the attorney or counsel of a party in interest to any action or proceeding then pending or about to be brought before him or her pursuant to Section 386 of Title 21 of the Oklahoma Statutes; or
 - (2) a corporation to influence elections or official duty by contributions of money or anything of value pursuant to Section 40 of Article IX of the Oklahoma Constitution.
- (f) Exceptions for forms of compensation, gifts to state, and officers/directors of organizations. Nothing in this section shall prohibit the acceptance or require the disclosure of:
- (1) compensation, bonuses, dividends, interest payments, employee benefits, expense reimbursements or other forms of compensation or earnings on investments;
 - (2) anything of value which is accepted by the Governor on behalf of the state of Oklahoma or a governmental entity pursuant to Section 381 et seq. of Title 60 of the Oklahoma Statutes. Section 381 et seq. of Title 60 of the Oklahoma Statutes. In order to be deemed accepted, the Governor must be notified in writing of any gift received by a governmental entity, or person on behalf of a governmental entity, within ten (10) days of receipt of the gift. Notice of acceptance must be received from the Governor within the next thirty (30) days. Upon lack of a response from the Governor within thirty (30) days of receipt of notice, the gift is deemed rejected and must be returned to the donor; or
 - (3) the solicitation or acceptance of anything of value for or from either:
 - (A) a charitable organization or an organization described in Section 501 (c) of Title 26 of the United States Code, 26 U.S.C., Section 501 (c), as it currently exists or as it may be amended; or
 - (B) a tax-exempt professional organization established by state statute or rules passed by the Oklahoma Supreme Court,

by a member, state officer or state employee, who is a member, officer or director of the organization, when receipt of anything of value results from the member, state officer or state employee attending a function, meeting or seminar on behalf of, or as a representative of, the organization.
- (g) No state officer or state employee shall directly or indirectly borrow money from a lobbyist, or an immediate family member of a lobbyist, or an entity controlled by or employing a lobbyist. This subsection shall not apply to:
- (1) a loan of money made by a commercial lending institution, in the regular course of business, on the same terms ordinarily available to members of the public, and which is not secured or guaranteed by a lobbyist or lobbyist principal or any other person on behalf of a lobbyist or lobbyist principal; or
 - (2) a loan from a father, stepfather, father-in-law, mother, stepmother, mother-in-law, sister, step sister, brother, step brother, child, step child, adopted child or their spouses.

- (h) Except for the compensation an elective officer is entitled to by law for the performance of official duties, no elective officer shall solicit or accept cash, check or cash equivalent compensation for an article, appearance or speech, or for participation at an event, unless the article, appearance or participation is made as part of the normal course of business in the member's private occupation.

Standard 257:20-1-10

State Officers' and State Employees' Private Interests in Public Contracts

- (a) Prohibition on contracting with state - Exceptions.
 - (1) State officers and state employees. No state officer or state employee, except a public member, shall sell, offer to sell or cause to be sold, rent or lease either as an individual or through any business enterprise in which he holds a substantial financial interest, goods, services, buildings or property to the governmental entity with which the officer or employee is associated or to any business entity licensed or regulated by the governmental entity which the officer or employee serves. This section shall not apply to students who are engaged in bona fide work-study programs at institutions of higher education within the Oklahoma State System of Higher Education.
 - (2) Limited exceptions. Paragraph (1) of this subsection shall not apply to
 - (A) a state officer if real property is acquired from the state officer by condemnation proceedings; or
 - (B) a state employee if real property is acquired from the state employee either by condemnation proceedings or the price to be paid for such property is approved in writing by the appointing authority of the agency acquiring such property and by the Governor.
- (b) Contracting with current or former legislators and statewide elective officers-Exceptions. No legislator or statewide elective officer shall sell or cause to be sold, rent or lease either as an individual or through any business enterprise in which he holds a substantial financial interest, goods, services, buildings or property to any governmental entity. No state officer or state employee, acting in his or her official capacity, shall enter into any contract in which the state officer or state employee knows that a person who is then or has been a legislator within the previous year, or a member of such person's immediate family, has a substantial financial interest. The provisions of this subsection shall not apply to a contract of employment with an immediate family member of a legislator, together with any renewal, promotion or lateral transfer of such employment contract to another governmental entity, which is:
 - (1) in existence on July 1, 1994;
 - (2) in existence prior to the legislator's term of office;
 - (3) in existence prior to marriage to the legislator; or
 - (4) with a student employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, and who is regularly enrolled, as defined in Paragraph 11 of Section 840.8 of Title 74 of the Oklahoma Statutes, in an institution of higher education comprising the Oklahoma State System of Higher Education

No legislator or statewide elective officer shall attempt to influence or perform an official function requiring the exercise of discretion relating to a contract with any governmental entity if a member of the legislator's or statewide elective officer's immediate family has a substantial financial interest in such contract.

- (c) Exceptions. Subsections (a) and (b), except as prohibited by law, shall not apply to:

- (1) contracts with state employees for goods or services valued at less than five thousand dollars (\$5,000);
 - (2) contracts with state employees entered into after public notice by the governmental entity and compliance with competitive bidding procedures; and
 - (3) employment contracts entered into with former legislators.
- (d) Exceptions for care of DHS clients only.
- (1) Care of children in need of treatment. Employees of the Department of Human Services are authorized to contract with qualified former state employees, or the spouses of state employees, or other relatives of state employees, for the purpose of providing direct care or treatment services to clients of the Department who are mentally retarded or have other developmental disabilities or are delinquent, children in need of supervision, or in need of treatment, or deprived. Provided, however, that rates of payment and other terms and conditions of contracts entered into pursuant to this section shall be established by the Commission for Human Services and shall be no more favorable than contracts for such services with persons who were not employed by the Department of Human Services nor related to an individual employed by the Department of Human Services.
 - (2) Limitations on return to state employment. A state employee terminating state employment to provide direct care or treatment services to clients of the Department of Human Services who are mentally retarded or have developmental disabilities, are delinquent, children in need of supervision, or in need of treatment, or deprived may not return to state employment for a period of one hundred eighty (180) days after date of termination from contracts with the Department of Human Services for direct care or treatment services to clients of the Department of Human Services who are mentally retarded or have developmental disabilities or are delinquent, children in need of supervision, or in need of treatment, or deprived.
 - (3) Exceptions for contracting with employees of OU Health Sciences Center. Notwithstanding Subsection (a) of this section, employees of the Department of Human Services are authorized to employ or contract with personnel of the University of Oklahoma Health Sciences Center, directly or indirectly, to obtain professional services for the Oklahoma Medical Center or clients of other programs administered by the Department of Human Services.
 - (4) Exceptions for Foster care, respite care, or services to children. Notwithstanding Subsection (a) of this section, employees of the Department of Human Services are authorized to contract with qualified state employees, or the spouses of state employees, or other relatives of state employees, for the purpose of providing foster care, respite care, and attendant services to children in the custody of the Department.

Standard 257:20-1-11

Actions Taken while Negotiating for Employment

A state officer or a state employee shall promptly disqualify prior to recommending or taking any official action in a matter affecting a person with whom the state officer or state employee is negotiating for employment.

APPENDIX D

PROVOST'S MEMO REGARDING PROMOTIONAL AGREEMENTS FOR PRIVATE INDUSTRY (11-11-04)

TO: All Health Sciences Center Faculty and Staff, OKC and Tulsa

FROM: Joseph J. Ferretti, Senior Vice President and Provost
Joseph L. Waner, Vice President for Research

DATE: November 11, 2004

SUBJECT: Service as Promotional Speaker for Private Industry

Over the past few months, the Office of Research Administration (ORA) has received several proposed contracts for University employees to serve as promotional speakers for private companies, most often pharmaceutical companies. Please keep in mind that University employees may serve as educational speakers - speakers who discuss products or services generally - but not as promotional speakers - speakers who promote a particular product or service.

University Regents' policy prohibits the use of University resources, including employee time, and the University name for the promotion of goods or services. In addition, any use of the University's name or symbols in advertising or promotional materials may be made only with special permission of the Vice President for Public Affairs. Employees who agree to or do promote goods or services in their professional capacity are in violation of University policy.

In addition, University employees are state employees and, as such, are governed by the State's conflict of interest rules. Those rules do not permit the use of state funds to promote private industry, nor do they allow state employees to use their positions for private gain. Violations of state conflicts of interest rules can result in fines, payable by the individual, and/or jail time.

Given the University's status as a public institution and the importance of presenting an image that is unbiased, professional, and respectful of its role as a steward of the resources entrusted to it, it is important that University employees not agree to provide any professional services that compromise, appear to compromise, or have the potential to compromise or appear to compromise their professional judgment, research results, or the like. Any action otherwise is a violation of University policy and state conflicts of interest rules.

Employees serving in educational speaking roles provide an important service to the community and their professions, and we encourage them to continue this service. University policy requires that contracts for employees to serve as educational speakers be routed through ORA for negotiation and authorized signature. Please contact ORA if you have questions regarding that process.

APPENDIX E

TIPS FOR AVOIDING CONFLICTS OF INTEREST

Employees should conduct their activities so as to avoid Conflicts of Interest and must respond appropriately when Conflicts arise. You are required to keep your Financial Interests separate from your Research and University obligations in order to protect your students, trainees, and others for whom you are responsible; preserve the integrity of your Research; and cause no harm to human research participants. In addition, relationships with Companies must not compromise academic freedom or delay or prohibit publication arising from your University activities.

These tips are meant to serve as a guide to Employees about issues that need to be considered when engaging in activities that may involve a Conflict.

HOW IS A CONFLICT OF INTEREST ASSESSED?

One way to assess the potential for a Conflict of Interest is to ask, "How would this look on the 6:00 news?" You should note that perceived bias can be just as damaging as actual bias. So, you should ask the following questions about the proposed activity:

- A. Are basic academic values upheld? For example,
 - 1. Is an open academic environment maintained?
 - 2. Are there prohibitions on publications or dissemination of Research?
 - 3. Are University licensing practices addressed?
 - 4. Is the use of University resources and facilities appropriate?
 - 5. Are students used for private gain of the Company or their mentors, and are they free to choose and publish their Research?
- B. What is the nature of the activity?
 - 1. Does it overlap with the University's interests?
 - 2. Is the activity appropriate to the mission of the University?
- C. Could personal Financial Interests have a direct and significant effect on the activity? For example,
 - 1. How much income or Equity is involved and what are the sources?
 - 2. Could the Financial Interests be a significant incentive for the individual with the Conflict?
 - 3. Could the Financial Interest pose a direct Conflict with the activity?
 - 4. Could the Financial Interest compromise the objectivity of the activity including its evaluation and presentation?
- D. Could human research participants involved in the Research be harmed by the Conflict?

If you CONSULT for a Company

- A. Your primary commitment is to the University and your consulting arrangement may not conflict with that obligation or conflict with any other University rules or regulations.
- B. The scope of your consulting responsibilities needs to be very specific so that it does not interfere with University responsibilities or publications resulting from your academic work.
- C. You must not provide the Company with early or exclusive access to results of your University Research, except in compliance with a separate sponsored research agreement with the Company and the University.

- D. You must disclose this relationship with the Company in publications and public discussions of any of your Research that is sponsored by the Company or related to the Company.

If you serve on a BOARD OF DIRECTORS OR ADVISORY BOARD

- A. You are normally permitted to sit on scientific or medical advisory boards, subject to prior approval; however, your primary commitment is to the University and your service must not conflict with that obligation or with any University rules or regulations.
- B. You may serve on a Board, only through a formal agreement between the University and the Company.
- C. The Company may not pay the University for your service on a Board with stock or stock options.
- D. You must recuse yourself from Board decisions affecting University interests or resign your Board position.
- E. You must not provide the Company with early or exclusive access to results of your Research, except in compliance with a separate sponsored research agreement between the Company and the University.
- F. You must keep your Financial Interests arising from service on Boards separate from your Research and University obligations.
- G. You must disclose this relationship in publications and public discussions of any of your Research that is sponsored by the Company or related to the Company.

If you perform a PROFESSIONAL ACTIVITY for a Company in which you have a FINANCIAL INTEREST

- A. You must report the value of the interest on the Expanded Conflicts of Interests Disclosure Form.
- B. The more significant the interest is financially, or the more likely the Research may benefit the Company (and thus your interest—particularly in the case of stock options), the greater the risk of the appearance of biased Research or Research results.
- C. You must disclose this Financial Interest in publications and public discussions of any of your Research that is sponsored by the Company or related to the Company.
- D. Financial Interests can raise the issue of such incentives compromising objectivity, particularly where human research participants are involved.

If the University has a LICENSING AGREEMENT with a Company for technology you developed

- A. All discoveries and inventions, whether patentable or unpatentable, and including any and all patents (domestic and foreign) based thereon and applications for such patents, which are made or conceived by any member of the faculty, staff, or student body of the University, either in the course and/or scope of employment for the University or substantially through the use of facilities or funds provided by or through the University shall be owned by and be the property of the Board of Regents except as otherwise provided in the University Intellectual Property Policy.
- B. You may have a sponsored research agreement through the University with the Company in which you have a Financial Interest upon approval of the Appropriate Vice President.
- C. You may have a consulting agreement through the University with the Company in which you have a Financial Interest upon approval of the Appropriate Vice President.

- D. Be aware that if you have federal funding for Research related to the licensed technology, the federal government retains rights to the results of the Research and inventions or discoveries arising from such Research.

If you give TALKS for a Company

- A. You cannot be a spokesperson for a Company or its product(s)
- B. You cannot promote, endorse, or market any Company or its product(s).
- C. You must ensure there is an agreement between the University and Company, signed by a University official, prior to the talk or speaking engagement.

If you receive GIFTS from a Company

- A. Gifts are often used as incentives to engender loyalty or support to a Company or its products and as a means of securing some commercial advantage. They may include such things as clinical trial enrollment incentives, equipment or reagents and supplies, travel, or unrestricted Research support.
- B. Corporate gifts for educational activities should not create a venue for access to Research results, an opportunity for promoting a Company's product or products, or provide the Company with preferential treatment.
- C. Unrestricted gifts for Research support are donations and, as such, the Company receives no intellectual property rights or access to Research results. Such gifts should not be accepted when specific Research activities are targeted for the gift money by the donor.
- D. Employees should be aware of limits on accepting gifts imposed by the State Ethics Rules.

APPENDIX F

QUESTIONS AND ANSWERS

F.1 What is the purpose of the disclosure requirements under this policy?

Disclosure is required whenever there is a Conflict of Interest so that a management strategy can be developed to assure that the Conflict does not interfere with the Employee's performance of his/her University responsibilities. Disclosure can be beneficial to both the University and the Employee in order to protect them against unfounded claims of impropriety. Disclosure does not necessarily mean that the Employee may not engage in the disclosed activity.

F.2 I am a faculty member who has received a grant to support my research. A member of my household recently completed his Ph.D. and I would like to hire him as a post-doctoral fellow on my grant. Can I do this?

Because of the personal relationship and inasmuch as the person is a member of your household it would not be appropriate for you to hire, supervise or evaluate this person. See the University's Nepotism Policy for additional guidance.

F.3 I am a faculty member with a Spin-Off Company and want to hire a graduate student I am advising to do some Research for this Company. Is this ok?

This represents a Conflict of Interest which probably may be managed if the Research does not overlap with the student's academic program. It is important that both you and the student understand that engaging (or even a decision to not engage) in this activity can in no way influence the student's academic relationship with the advisor and the University. In order to insure this, any arrangement should be disclosed and reviewed periodically for a continuing relationship.

F.4 I am a faculty member and wish to test some samples for a Company for which I am also consulting. How can I do this?

Since you wish to have two professional relationships with the Company, this represents a Conflict of Interest which may be manageable through contracts with the University (fee-for service and consulting). You may submit a proposal for the testing services through the Office of Research Administration (ORA) and use the appropriate forms to disclose your relationship to the Company. If there are no intellectual property issues, the primary issue is deciding on a fair value for the services to be performed.

F.5 I am a faculty member and the technology that I developed was licensed to a Spin-Off Company. Can I be the Principal Investigator for an SBIR NIH grant application the Company is submitting?

This represents a Conflict of Interest that may be managed and must be disclosed prior to submission of the grant application. The PI of an SBIR grant must be employed by the "small business concern" for a minimum of 51% FTE. Therefore, the PI must obtain the approval of his/her Unit Head to commit this level of effort to the Company.

F.6 I am a faculty member working with a Company that will submit a "Small Business Innovative Research" (SBIR) project to the federal government for which the Company would subcontract the experimental work to the University. How can this be done?

If you will serve as the University's Principal Investigator on the subcontract, the University will work with the Company on the subcontract after the SBIR is awarded to the Company. Additionally, an intellectual property

agreement will likely need to be executed between the Company and the University, unless there is already one in place.

- F.7 I am a faculty member with a Spin-Off Company that is submitting an STTR NIH grant application. Can I be the Principal Investigator of the grant?

This represents a Conflict of Interest that may be managed and must be disclosed prior to the submission of the grant application. The PI of an STTR grant must commit a minimum of 10% effort to the grant. Therefore, the PI must obtain the approval of his/her Unit Head to commit this level of effort to the grant.

- F.8 I am a faculty member who, with my spouse and children, owns ten percent interest in a small biotechnology Company. The combined value of the stock we hold in this Company is \$25,000. I am writing a research proposal which I plan to submit to the National Institutes of Health to support a project that is related to the business interests of the Company. Can I do this?

You may be able to do so. To comply with University policy and National Institutes of Health rules, you will need to disclose your involvement in the Company by disclosing your involvement in the Company in the completing the appropriate Conflicts of Interest Disclosure forms at the time you are submitting your proposal. Your involvement in the Company and project will be reviewed at that time. If you receive funding from NIH, agency rules and University policy may require further review and restrictions or conditions may be imposed to manage, reduce, or eliminate the possibility that your research project could be influenced by your business interests. The NIH rule requires that the University certify that such issues have been resolved before you start spending any funds for your research project.

- F.7 I have a consulting arrangement with Pharmaceutical Company X which markets drugs related to my medical specialty. I do not have an active research program and do not receive any research funding from Company X or any of its competitors. Is this a Conflict of Interest?

It could be, especially if you prescribe Company X's products to your patients, evaluate the results and report those results to Company X.

- F.8 I am a participant in a national protocol developed by Pharmaceutical Company Q. They provide the medication in a blinded protocol and patients are selected at random for the medication. I collect the designated patient data and forward it to the Company and they reimburse me for each completed patient. This includes a physician's fee which I receive through my PPP. Do I have a Conflict of Interest?

If you administer the medication blinded and to random patients and forward the patient data to the Company, there is no Conflict. However if the study is not blinded and you select the patients, gather the patient data and forward the information to the Company, there could be a Conflict in that a bias could be used in selecting the patients, especially if you provide any evaluation of the patient data.

- F.9 I have a business arrangement (e.g., a consulting or executive position) with a biotech Company and they pay me to review research data and provide them with my evaluation. They do not support any of my research. I do have support from other sources for my research which is related to the area of the biotech. Is this a Conflict?

Yes, this is a potential Conflict of Interest as it may bias your research evaluations or otherwise affect your research results.

- F.10 My spouse is a member of the Board of Directors of a Company which competes with a Company for which I do research. Is there a Conflict in this situation?

Yes, this situation represents a potential Conflict of Interest. Due to relationships within Families, there could exist the potential of a bias in the research you conduct.

F.11 I am doing research funded by a pharmaceutical Company in which I have not purchased stock. My father-in-law recently died and left in his estate to my wife stock in this Company. Am I in violation of the Conflict of Interest policy?

If the value of the stock is at least \$10,000 there is a Conflict of Interest which must be reported. It is for circumstances such as these that an annual evaluation is required by NSF and NIH as Conflicts may not be present at the beginning of funded research but may surface sometime during the research period.

F.12 I am currently employed as an accountant in one of the college offices. A vendor from whom the college frequently orders supplies has asked whether I would be interested in working for him either in the evening or on weekends. I have no responsibility for placing orders. Can I do this?

You probably will be able to do this so long as it does not interfere with your University responsibilities and you do not use University Resources. Discuss this with your immediate supervisor.

F.13 I am a member of the University's professional staff. One of my hobbies is photography, and I have started a part-time business taking wedding pictures on weekends. Do I need to disclose this activity to my supervisor?

Since your outside business is neither related to nor does it interfere with your University responsibilities, it is not necessary for you to disclose this activity.

F.14 I am the manager of an office on campus. We are getting ready to replace our office copy machine. My brother-in-law owns a business machine store in town, and he has offered to sell us a new copy machine at his cost. Can I buy the machine from him?

The purchase of a new copier for your office would come under University purchasing policy and the Purchasing Department will obtain competitive bids before a purchase can be made. You would have to remove yourself from the bidding process. If your brother-in-law's store submits the low bid, they could be awarded the contract. Since you would not be involved in review and acceptance of the bids, this process would not present a Conflict of Interest for you.

F.15 I am a faculty member who receives a royalty payment for a diagnostic test. May I test a competitive technology?

This represents a Conflict which probably can be managed. You must disclose this relationship pursuant to this policy.

APPENDIX G

OTHER UNIVERSITY POLICIES WHICH MAY RELATE TO CONFLICTS OF INTERESTS

Conflicts of Interest may take various forms but exist when there is contradiction between the private interests and professional obligations of a University employee. In addition to being addressed directly in this policy, such Conflicts are addressed in other University policies which govern conduct of employees' professional activities. A listing of such policies follows. This list is not presented as comprehensive of all references to Conflicts that may occur in the University environment. A University employee should consult specific University policies as presented in the *Faculty Handbook*, *Staff Handbook*, and *Administrative Policies* for guidance and information regarding specific situations which may relate to Conflicts of Interest.

- (1) General Purchasing Policies
- (2) Academic Freedom and Responsibility
- (3) Sabbatical Leave
- (4) Ethics in Research
- (5) Intellectual Property Policy
- (6) Professional Practice Plan
- (7) Nepotism
- (8) Use of State Vehicles for Private Purposes
- (9) Off-Campus Use of University Property
- (10) Conducting Private Business from State-Owned Facility