

Report of the Research Council on Conflicts of Interest and Commitment

This report and the included Fayetteville Campus Conflict of Interest and Commitment Policy were approved by the Research Council on 12 September 2003, by the Faculty Senate on 15 October 2003 and by the Campus Council on 5 April 2006.

In the spirit of a land grant institution committed to research and community outreach, the University of Arkansas and its faculty, staff, and students interact internally through intracampus relationships and externally with various constituencies including private businesses, public institutions, government organizations, and others. Technology transfer and enterprise development are logical and expected consequences of university research and intellectual property development. Accordingly, the University encourages the involvement of academic researchers and educators with industry and private entrepreneurial ventures, but recognizes that such interactions carry with them risks of conflicts of interest. Correspondingly, faculty, staff, and students of the University are likely to be confronted with situations that are or potentially may be in conflict with the better interest of the University.

A conflict of interest arises when a faculty, staff, or student is or may be in a position to influence the University's business activity, funded or unfunded research, or various other decisions in ways that could result in personal gain for that individual, or for others closely associated with that individual. Rather than specifically exclude these types of activities, Board of Trustees Policy 450.1 encourages the pursuit of extracurricular involvements that may enhance the performance of University personnel while recognizing the potential for conflicts of interest and the need to manage conflicts of interest in a manner that best reflects the University's interest.

[BOARD POLICY 450.1

OUTSIDE EMPLOYMENT OF FACULTY AND ADMINISTRATIVE STAFF MEMBERS FOR COMPENSATION

www.uark.edu/admin/vcfainfo/systempp/systemindex.html

While emphasizing the fact that full-time faculty and non-classified administrative staff members of the University are obligated to devote their working time and efforts primarily to University activities, the University recognizes that a limited amount of outside work for private compensation may be advantageous to all concerned. Deans, department heads, directors, vice chancellors, chancellors, vice presidents, and the president are included as administrative staff. Such persons are therefore encouraged to engage in outside employment which will affirmatively contribute to their professional advancement or correlate usefully with their University work. This employment shall not interfere in any substantial way with the employee's University duties nor conflict with his/her University assignments. Written approval from department head and/or dean shall be obtained in advance of such outside employment. Each dean or similar officer shall keep records on outside employment by personnel in his/her college or administrative unit. The report should include actual time spent during the reporting period. Such records shall be reviewed by the appropriate administrator and submitted to

the Chancellor or Vice President for Agriculture by September 30 of each year and such records shall be reviewed periodically by the appropriate administrator. The employee shall always make it clear the outside employment is his/her own responsibility and that in it he/she does not act as an agent or representative of the University. University facilities or property shall not be used except with permission of the department head or dean, and the payment of appropriate fees may be required.

BOARD POLICY 330.1

EMPLOYEE AND CONTRACTOR CONFLICT OF INTEREST

www.uark.edu/admin/vcfainfo/system/0330.1

It is the policy of the Board of Trustees to assure that employees of the University of Arkansas and persons or entities contracting with the University of Arkansas abide by laws applicable to them in performing their responsibilities and specifically that they conduct their activities in accordance with applicable laws, regulations and policies governing ethical conduct and ethics in public purchasing and contracting.

Contracts and Grants Prohibited Without Review and Approval

- A. *The University shall not, without approval by the Chancellor, Vice President for Agriculture, Director of the Arkansas Archeological Survey, Director of the Criminal Justice Institute, or their designee, enter into, amend, or renew a contract with, or award a discretionary grant to current or former:*
- (1) *members of the Arkansas General Assembly,*
 - (2) *constitutional officers,*
 - (3) *board or commission officers*
 - (4) *state employees,*
 - (5) *the immediate family member, including the spouse, of any of (1) through (4), or*
 - (6) *any entity in which any person designated in (1) through (5) holds any position of control, or holds any ownership interest of ten percent (10%) or greater.*
- B. *The Chancellor or other appropriate official shall consult with the President prior to approving a contract with a current or former member of the Arkansas General Assembly, their immediate family member, or any entity in which such person holds any position of control or holds any ownership interest of ten percent (10%) or greater.*

Employment Prohibited Without Review and Approval

A. *The University shall not, without approval by the Chancellor, Vice President for Agriculture, Director of the Arkansas Archeological Survey, Director of the Criminal Justice Institute, or their designee, hire the following persons:*

- (1) members of the Arkansas General Assembly during their term of office,*
- (2) constitutional officers during their term of office,*
- (3) former members of the Arkansas General Assembly in any job created or enhanced by legislation in the two-year period immediately preceding the end of that person's term of office,*
- (4) former constitutional officers in any job created or enhanced by legislation in the two-year period immediately preceding the end of that person's term of office, and*
- (5) the immediate family member, including the spouse, of members of the General Assembly, constitutional officers, and state employees.*

B. *The Chancellor, Vice President for Agriculture, Director of the Arkansas Archeological Survey, or Director of the Criminal Justice Institute shall consult with the President prior to approving the hiring of persons in categories (1) through (4) above.*

Conflict of Interest Policies

The President shall assure that each campus of the University, including the Division of Agriculture, the Arkansas Archeological Survey, the Criminal Justice Institute and the University of Arkansas System Office establish conflict of interest policies applicable to employees at the campus, division or unit and to persons or entities contracting with the University which are applicable to the campus, division or unit.

The policies shall assure adequate disclosure of conflicts of interest and a method for resolving such conflicts. The policies shall specifically assure that employees in purchasing, billing, collections, financial offices, and offices otherwise engaged in contracting for expenditure or receipt of funds shall not accept gifts or gratuities from persons or entities contracting with or otherwise engaged in business with the University.

The President shall further assure that policies are adopted which appropriately notify employees and person or entities contracting with the University of this conflict of interest policy and policies adopted pursuant to it, provisions of the Ethics in Public Contracting Law and Other applicable laws dealing with conflict of interest and ethical conduct of public employees and contractors.

Delegation of Authority to President

The Board delegates to the President the authority to implement this policy to University wide Administrative Memorandum to assure appropriate disclosure and reporting to coordinate with applicable laws and regulations. The President may exempt certain contractors, employees or classes of contractors and employees from the provision of this policy. The President may also expand the provisions of this policy to accomplish its objectives.]

Fayetteville Campus Conflict of Interest and Commitment Policy

Extracurricular Relationships

The nature of possible faculty, staff, and student relationships outside the University varies widely. A precise and exhaustive definition of all possible relationships with the potential for conflict of interest is not possible. However, general categories that exhibit high potential for conflict of interest include but may not be limited to the following:

- 1. Consulting activities**
- 2. Equity interests of 10% or more of a company**
- 3. Management roles**

Involvement in one or more of these extracurricular categories does not necessarily constitute a prohibited conflict of interest. Employment of faculty, staff, and student representatives by non- University entities is common to and in the spirit of the University culture. Depending upon the entity and the nature of the activity, consulting may not cause any conflict of interest for a University employee or representative. Payment of a retainer for a consultant's time and expertise is appropriate in many instances. Likewise, University employees and representatives may own stock in private companies and relatively modest holdings of less than ten percent of a company's equity are not a matter of University concern. Faculty, staff, and student employees are encouraged to seek and to undertake leadership roles in private, public, and governmental organizations. A University employee or representative, therefore, may serve in leadership roles (e.g., director, board member, line officer) or management positions in private, public, or governmental organizations.

Assessment of Potential Conflicts

A potential conflict of interest may arise when a University faculty, staff, or student representative's extracurricular relationships interfere or compete with one another or with that individual's relationship to the University. The variety of possible combinations and complexities of non-University work relationships is significant. It is not feasible, therefore, to delineate exhaustively all situations that may involve a conflict of interest. The following examples provide general guidance relating to relationships that may require disclosure.

Consulting Activities: The potential for conflict of interest arises when an individual seeks or is awarded a contract for sponsored research through the same entity for which that individual is or has been a paid consultant. Similarly, if one person is serving as a consultant for two or more clients who are themselves in competing or conflicting relationships, the potential for a conflict of interest does exist.

Equity Interests: The existence of an equity interest in an outside enterprise does not alone constitute a conflict of interest. However, if a University employee or representative with equity interest in the enterprise is asked to consult for, or is provided research funding from, that company or one of its competitors, the potential for a conflict of interest does exist.

Management Roles: If a University employee or representative has a management role in an entity and is directly involved in research, marketing, or other activities either for the University or for a competing company, the potential for a conflict of interest does exist.

Multiple Interests or Roles: An individual faculty, staff or student representative of the University may simultaneously become involved in consulting relationships, have equity holdings, and serve as an officer in one or more companies. Each of these relationships may well be independent of all the others and no conflict among them may exist. However, because of the strong potential for conflict of interest, the nature and extent of the relationships must be fully disclosed by the individual.

Conflict of Interest and Commitment Disclosure

All parties participating in relationships involving University employees or representatives and non-University entities should be fully aware of the nature of those relationships if a potential for conflict exists. It is the responsibility of the individual who has entered into potentially conflicting relationships to disclose to his or her immediate supervisor the nature and degree of such relationships.

This disclosure policy provides a mechanism for:

1. Identifying conflicting non-University relationships.
2. Informing those with a need to know about conflicting relationships through disclosure.
3. Taking remedial steps to protect the interests of all concerned.

Disclosure of Potential Conflict of Interest and Commitment Forms (Fayetteville Campus Policy 404.0) www.uark.edu/admin/vcfainfo/policyprocedures/facstaff.htm

The UA Board of Trustees Policy 450.1 on undertaking outside employment and the policy of the Fayetteville campus of the University of Arkansas on disclosing potential conflicts of interest and commitment, or the appearance thereof, are implemented by two forms:

The form "Prior Approval of Outside Employment" implements the University of Arkansas Board of Trustees Policy on outside employment. Full-time faculty and non-classified administrative staff members are required annually, and on an *ad hoc* basis as needed, to obtain written approval from department head and dean prior to undertaking outside employment. Employees seeking approval for outside employment must indicate in an attachment to this form if they believe that the proposed activity will constitute a conflict of interest. If they do so indicate, they must inform their immediate supervisors of the details of the potential conflict. Disclosure is automatically required if a University employee proposes to assume an equity interest or a management role in a company supporting research. The employee is obligated to define the nature of any relationships and identify the entities with which the relationships will exist. Documentation such as a contract, letter, or other communication that specifies the nature and extent of the University employee's obligation and duties may be included as part of the disclosure.

Conflicts of interest and commitment are not necessarily unwarranted, unethical, or illegal. Furthermore, conflicts of interest and commitment are not always avoidable. The failure to disclose situations that have the potential for or involve actual conflicts of interest or commitment, however, may be unethical and/or illegal. Disclosures should be made as early as possible to enable those reviewing them to consider what action, if any, needs to be taken regarding any potential conflicts of interest.

Approval of a request for outside employment is not an indication that the University considers that the potential for conflict of interest related to the employment does not or will not exist. Accordingly, the second form, "Disclosure of Potential Conflict of Interest and Commitment," must be completed and submitted annually, and on an *ad hoc* basis as needed, by all faculty, and classified and non-classified staff. This form implements the University of Arkansas Fayetteville campus policy on Conflict of Interest and Commitment passed by the Campus Council in February, 1992 and printed in the University of Arkansas Faculty Handbook. Conflicts of commitment are situations in which University employees' time and efforts given to outside activities and interests interfere with their obligations and responsibilities to the University. It is the Fayetteville campus policy of the University of Arkansas that its officers, faculty, staff and others acting on its behalf have the obligation to avoid ethical, legal, financial and other conflicts of interest with their obligations to the University or its welfare. This form provides a mechanism for disclosing any relationships or activities that might give rise to conflicts, or the appearance thereof, with assigned duties, responsibilities or obligations to the University of Arkansas.

All faculty and classified and non-classified staff are required to read the two policies and to complete the form(s) annually, or more often as needed, that apply to his or her situation and employment status. Copies of the policies are in the current Faculty

Handbook. These forms will be distributed annually to all employees and made available throughout the year for those employees who need to disclose any changes in circumstances as those changes occur.

Review of Disclosures

All requests to undertake outside employment and all disclosures of potential conflict of interest must be reviewed by the employee's immediate supervisor and in turn by the supervisor's immediate superior. A copy of the form, either approved or outlining steps to manage the potential conflict, must be returned to the employee completing the form, and the original form must be retained in the office of the employee's supervisor.

- **Departmental Level:** The employee's immediate supervisor is responsible for reviewing all disclosures. If, in his or her opinion, no potential or actual conflict of interest exists, further review is unnecessary, unless that supervisor is also a party to the enterprise being disclosed. In such an event, the first review is raised one level of supervision. Where a potential or actual conflict exists, the immediate supervisor must decide if it is serious enough to require intervention or mediation. The immediate supervisor may choose to rely on the advice of a departmental *ad hoc* review committee to assist in the evaluation.
- **College Level:** If the employee's immediate supervisor is unable or unwilling to deal with the actual or potential conflicts of interest and commitment that a disclosure reveals, he or she should forward the disclosure to the appropriate college dean for review. As in the case of departmental review, if a dean believes that no conflict of interest or commitment exists, further review is unnecessary. Where a potential or actual conflict exists, the dean should decide if it is serious enough to require intervention or mediation. A dean may choose to rely on the advice of a college-constituted committee in reviewing disclosures.
- **University Level:** If a dean or other administrator is unable or unwilling to deal with the actual or potential conflicts of interest and commitment that a disclosure reveals, then he or she should forward the disclosure to the Provost for review. The Provost will seek advice from the Conflict of Interest and Commitment Review Committee (CICRC). The CIRC is described later in this document. The CICRC is responsible for reviewing conflicts of interest and commitment issues referred to it, and recommending remedies to the Provost for resolving, reducing or eliminating potential or real conflicts.

After consulting with the employee, considering whether an actual or potential conflict of interest or commitment exists, and the ramifications for the University, the supervisor will provide the employee with a written interpretation and any proposed remedial actions within five working days. At the same time the immediate supervisor will provide a copy of the document to his or her supervisor for approval. The document will be acted upon within five additional working days and returned for retention in the immediate supervisor's office.

The supervisor or dean shall refer potentially serious conflicts to the Provost for review by the CICRC. The CICRC shall review the situation and make recommendations to the Provost within twenty working days. All disclosures of situations that involve the transfer of technology to an organization in which the employee or the employee's immediate family has an equity interest shall be submitted by the supervisor or dean directly to the Provost for review by the CICRC. The Office of Research Support and Sponsored Programs shall receive such disclosures on behalf of the CICRC.

Appeal of Review Decisions

At each level of review the employee petitioning for approval for outside employment or disclosing a potential conflict of interest may appeal a disputed decision on the petition or disclosure to the next level of supervision. The final decision on all petitions and disclosures resides with the Provost based on recommendations from the CICRC. If a conflict is deemed to be unavoidable or unmanageable, the Office of Research and Sponsored Programs will notify the potential or actual funding agency of the problem.

Examples of Reported Conflicts of Interest and Commitment Disclosures

Potential and actual conflicts of interest may arise when faculty, staff, and student employees or representatives of the University engage in activities that may place the interests of the University in conflict with those activities. Because of the potentially endless possible combinations and complexities of such conflicts, an exhaustive description of all potentially conflicting situations is not feasible. The following levels of conflict recognition provide general guidelines relating to relationships that may require disclosure and/or management of the conflict.

Level One: No Apparent Conflict to Disclose, No Review Required

The employee has no issues pertaining to conflict to disclose on the required disclosure forms.

Level Two: Potential Minor Conflict Disclosed, Immediate Supervisor Resolution

The employee discloses a potential or actual conflict and is counseled by the immediate supervisor as to the nature and extent of the conflict. The immediate supervisor and the employee mutually agree in writing on an acceptable resolution. The immediate supervisor may request additional input from a committee of the employee's peers in researching an appropriate solution.

Examples include: Participation in outside business activities; teaching credit or noncredit courses, seminars, or workshops not for the university; fees provided for professional service including consulting, honoraria, royalties, or expert testimony; time and effort in extramural activities that interfere with obligations, duties, and responsibilities to the university;

Level Three: Potential or Major Conflict to Disclose: Dean's Office Resolution

The employee discloses a potential or actual conflict, is counseled by the immediate supervisor, but a mutually agreeable resolution is not forthcoming. The dean, the immediate supervisor, and the employee jointly seek a resolution. The dean may request additional input from a college or unit committee of the employee's peers in researching an appropriate solution. In the event that the conflict includes an equity interest in an organization or intellectual property, the disclosed conflict must be sent to the Provost for CICRC investigation, review, and recommended resolution.

Examples include: requiring material for use by students for which the instructor derives direct or indirect financial benefit; continuing role in the scientific and technical efforts of a commercial enterprise; employee or immediate family member has financial interest in university decisions; use of state facilities, equipment, supplies and employees for the employee's private advantage or financial benefit; receiving compensation from persons for performing those duties which the employee is obligated to perform for the University; receiving gifts in kind from an organization who potentially has influence on decisions of the unit, including travel, food, lodging, etc.; honoraria offered for performance of duties normally expected of faculty, staff, or student employees.

Level Four: Irresolvable Conflict: Provost's Office Resolution

The employee discloses a potential or actual conflict; however, resolution cannot be achieved at the college or unit level. The Provost will meet with the employee and the dean of the college to discuss the conflict of interest. The Provost will request a review and recommendation of the CICRC. In the event that the conflict includes an equity interest in an organization or intellectual property, the disclosed conflict must be sent to the Provost for CICRC investigation, review, and recommendation.

Examples include: use of official University position for personal/family gains/interests; appointment, promotion, supervision, or management of an immediate family member; acceptance of gifts or gratuities offered because of University position; use of University credit, purchasing power, or facilities for non-University activities; advertising endorsements based upon University position; active involvement in professional lobbying activities for which compensation is received; participation in the electoral process with the purpose of achieving elected public office; soliciting, accepting or receiving any gift or series of gifts from a restricted donor.

Level Five: Referred Conflict: CICRC Investigation and Resolution

All disclosures that include an equity interest in an organization or intellectual property must be referred to the CICRC. Further, any conflicts requiring a management plan must be referred to the Provost for CICRC review and endorsement.

Examples include: employee or immediate family member ownership, management, or other business ties with a private or public organization that has dealings with the University; personal payments, income, gifts, or other benefits received or promised from an organization proposing or sponsoring research; private remuneration provided by an individual or organization for University research; revenue from patents or licensed technology; service or financial interest in an entity that provides research grants or contracts; direct commercial or financial interests of immediate family members in employee's research; transfer of technology to an organization in which the employee or their immediate family members have an interest; outside activities influencing decision or behavior with respect to preservation, generation, and dissemination of knowledge (e.g., delaying dissemination of research information, diverting to external organizations research opportunities that the University would have a normal expectation to obtain).

CONFLICT OF INTEREST AND COMMITMENT REVIEW COMMITTEE

Faculty, staff and students of the University are public representatives whose professional activities may create situations in which their private or personal interests are potentially in conflict, or give the appearance of conflict, with their official responsibilities. Faculty, staff and students must be sensitive to the potential for conflict of interest and commitment situations and act in a manner to minimize or eliminate a potential conflict. It is incumbent upon faculty, staff and students to abide by the conflict of interest principles described in **Board Policy 450.1**. Breaches of the prescribed policies are grounds for disciplinary action.

Management of conflicts of interest and commitment is a requisite activity when potential and/or real conflicts are determined to exist. The University procedure for reporting conflicts of interest and commitment are addressed in Fayetteville Policies and Procedures 404.0. Specifically, annual as well as *ad hoc* submission of the following Conflict of Interest and Commitment Forms is required:

- **Prior Approval of Outside Employment:** Full-time faculty and non-classified administrative staff members are required annually or as needed to obtain written approval from Department Head and Dean prior to undertaking outside employment.
- **Disclosure of Potential Conflicts of Interest and Commitment:** Full-time faculty and non-classified administrative staff members are required annually or as needed to disclose any relationships or activities which might give rise to conflicts, or the appearance thereof, with their duties, responsibilities or obligations to the University of Arkansas.

Although students usually are not employees of the University, their involvement in University research programs has the potential for conflict of interest and commitment to arise. Additionally, a student may be inadvertently involved in a potential conflict of

interest associated with their faculty advisor. For the purposes of management and resolution of potential conflicts of interest involving the University, students shall be held to the same standard as faculty and staff.

It is incumbent upon faculty, staff and students, and their Department Heads and Deans to manage or resolve real or apparent conflicts. However, managing conflicts of interest and commitment may require review above the Department Head and Dean level as prescribed by Fayetteville Policies and Procedures 404.0. Such reviews shall be provided by a Conflict of Interest and Commitment Review Committee advisory to the Provost.

Conflict of Interest and Commitment Review Committee Appointment

The Provost shall appoint tenured faculty to the Conflict of Interest and Commitment Review Committee (CICRC) based on recommendations from the Deans of the several colleges. Such appointments shall include one tenured faculty member each from the Dale Bumpers College of Agriculture, Food, and Life Sciences, the Sam M. Walton College of Business, the College of Education and Health Professions, the College of Engineering, and the School of Law, and two tenured faculty members from the J. William Fulbright College of Arts and Sciences (one from the arts, humanities, or languages and one from biological, physical, or social sciences). In addition, one faculty representative shall be appointed by the Faculty Senate, and one staff representative shall be appointed by the Staff Council. Individual appointments shall be for three years. The Dean of the Graduate School shall recommend one graduate student who shall be appointed for one year. Ex-officio non-voting members to the CICRC shall include: Vice Provost for Research (Chair), Vice Chancellor for Finance and Administration, Director of the Office of Research and Sponsored Programs, and General Counsel or representative.

Guidelines and Responsibilities of the Committee on Conflicts of Interest and Commitment

The CICRC is responsible for reviewing conflicts of interest and commitment issues referred to it, and recommending remedies for resolving, reducing or eliminating potential or real conflicts. Disclosure of conflicts of interest and commitment begin with the annual submission of Prior Approval of Outside Employment and Disclosure of Potential Conflict of Interest and Commitment forms at the department and unit levels. Whenever possible, potential conflicts should be resolved at the department and unit level. When conflicts cannot be resolved at department or unit levels, a request should be made to the Provost by the unit Head, Dean, or the concerned faculty, staff or student to engage the CICRC in resolving the conflict. After reviewing the conflict, the Provost may return the conflict to the unit for further consideration at the unit level or the Provost may elect to send the conflict to the CICRC for review and recommendations.

Based on current Board of Trustees and University of Arkansas policies and regulations, the CICRC shall examine all pertinent information, review all records, and receive testimony as necessary. The CICRC shall provide the faculty, staff or student an

opportunity to respond to the potential conflict in person and in writing. The faculty, staff or student is expected personally to participate fully in the process.

The CICRC Chair shall ensure that, within 10 working days of the conclusion of the inquiry, a written report of findings will be delivered to the faculty, staff or student, the Department Chair, the Dean, and the Provost. The report shall include policies and procedures the CICRC followed in arriving at its conclusions. This timeline may be extended by the CICRC, in consultation with the Provost, as it deems necessary and reasonable.

If, as a result of the inquiry, the CICRC determines that the potential or real conflict is of sufficient seriousness to warrant action, the Committee Chair will request, through the Provost, that the faculty, staff or student, in cooperation with his/her Department Head and Dean, develop a plan that describes steps to be taken to manage, reduce, or eliminate any actual or potential conflict of interest identified in the annual reporting process. The Provost shall receive the plan within 10 working days of the request. Upon reviewing the plan, the Provost shall consult with the Chair of the CICRC and the Dean of the unit and, if necessary, request further involvement of the CICRC in resolving the conflict. If requested, the CICRC shall review the plan and either recommend approval as submitted, or recommend modifications to the plan as it deems appropriate under existing policies.

In all situations, the Provost shall have the final decision regarding the recommendations of the CICRC. The Provost shall notify the individual faculty, staff or student, the Department Head, the Dean, and the Chair of the CICRC of the final action taken. A complete record of the inquiry and the remedy shall be maintained in the Office of the Provost for a period of three calendar years.

Guidelines and responsibilities of the CICRC can be expanded, modified, or reduced by the Research Council in response to requirements of new or modified University or Board Policy or as requested by the Provost.