

3359-11-17 Conflict of interest, conflict of commitment, scholarly misconduct, and ethical conduct - policies and procedures.

(A) Introduction.

These policies and procedures represent an evolving set of documents. The complexity of the subject matter is such that the current policies and procedures will need a yearly formal review by the senior research officer of the university with the advice of the faculty senate and other bodies which have interest. This policy is intended to conform to all laws and regulations, state or federal, regarding funded research.

(B) Policies and procedures regarding conflicts of interest and/or commitment.

- (1) Each university employee will review and comply with these policies by promptly taking whatever steps are required to avoid, eliminate, remediate or manage an actual conflict of interest and/or commitment. This also includes graduate students, identified as investigators on externally funded grants.
- (2) On the first day of May, each university employee will submit a potential conflict of interest/commitment and request for pre-approval of outside activities form (yearly conflict of interest and commitment report) to her or his immediate supervisor that discloses any outside activities that could represent a conflict of interest and/or commitment seeking preapproval for the upcoming year. In addition, employees are required to update the form during the course of the year seeking preapproval for any additional proposed outside activities.
- (3) Written disclosure is required pursuant to this rule ~~in-~~ ~~at~~ could represent a ~~ct~~ when adding conflict of interest and/or commitment.
- (4) Outside consulting activities of full-time employees will be governed by the following:
 - (a) All forms of outside activities that involve a time commitment at the expense of an employee's primary responsibilities to the university during an individual's employment contract must be disclosed.
 - (b) The maximum allowable time permitted for outside consulting activities is one day per week on average during the period of the university academic-year or calendar year ~~con #~~ ~~v~~ ~~ar~~ circumstances, including but not limited to teaching assignments or other scheduled university duties and/or the terms and conditions of support of university grants or contracts, will be taken into account in approving such arrangements.

what is being done, for whom, and at what level of compensation (e.g., less than

financial interests, employment, or other involvements are to disclose those facts to their administrative superior before the university approves the proposed arrangement. Examples of such arrangements: gifts in kind, contributions; sponsored research or other sponsored programs; patenting, licensing, or technology transfer or other intellectual property agreements; procurement, contracts, and/or subcontracts, and similar agreements as defined in paragraph (H)(5) of this rule.

- (10) The president, vice presidents, deans, and other officers, as may be designated by the board of trustees from time to time, are to submit for review and approval an annual disclosure statement which includes memberships on any corporate boards, partnerships, or associations held by such officers. In addition to any proposed outside activities, including consulting, such disclosures also are to identify any office or fiduciary relationship with a not-for-profit corporation or public board or agency.
- (11) No university employee is to use or attempt to use his/her public position or state property, including property leased by the state, to secure or attempt to secure anything or the promise or offer of a thing of value that is of such a degree to

agreement signed by an authorized university official delegated such authority by the university board of trustees. Computer software developed by university employees during the course of the individual's employment contract with the university or using university resources is the property of the university.

Inventions or discoveries made using any university facilities or other university resources belong to the university even if the inventors are not university employees, unless otherwise stipulated in a specific written university patent rights agreement signed by an authorized university official delegated such authority by the university board of trustees.

University intellectual property, including inventions and computer software, is to be managed under rule 3359-02-05 of the Administrative Code. The university will share with inventors and software authors any net royalties or royalty-type income that may be gained as a direct result of licensing or attempting to license the intellectual property.

University employees are to disclose in a timely manner to the university: (a) their own creation or discovery of inventions and computer software which are developed using university resources, regardless of sponsorship; (b) any discoveries and inventions utilizing university resources, including those resulting from their participation in sponsored research or other sponsored programs, other remunerative outside activities in their field of academic interest or specialization, or any other activities of an outside commercial enterprise, including any university employee-owned or employee-managed company; and/or (c) the creation or discovery of inventions of any others associated with them when that development involved any university resources.

No university employee is to provide confidential or proprietary information including disclosures or other information regarding inventions or other intellectual property, to a company or other entity or its agents without prior disclosure to and specific permission from the university board of trustees upon recommendation of the vice president for research.

- (16) University employees who wish to propose or are involved in university sponsored research or other sponsored programs are expected to review and adhere to all university policies, procedures, and obligations related to proposing, managing, reporting of results, and other aspects of such projects.
- (17) The university requires that investigators disclose to the university's director of the office of research administration any potential conflicts of interest prior to the submission of a proposal for funding. If a new conflict of interest arises at any time during the period after submission of the proposal through the period of award, the filing of a disclosure and immediate action toward remediation is required. Each investigator must disclose all significant financial interests including those of family

members if legally required, as well as any other potential conflicts of interest as defined in paragraphs (G)(6) and (G)(20) of this rule.

- (a) That would reasonably appear to be directly and significantly affected by the research or educational activities funded, or proposed for funding, by an external sponsor or
- (b) In entities whose financial interests would reasonably appear to be directly and significantly affected by such activities.

(18) Conflict policies regarding research projects:

- (a) University employees are prohibited from independently submitting or negotiating proposals or contracts for any eg ² ir M c M

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biohazard safety).

- (e) It is the responsibility of each university employee to disclose promptly to the senior research officer any situaT

- (21) Employee pursuit of a degree, when presenting a situation in which a possible conflict of interest or conflict of commitment could reasonably be thought to exist requires prior approval by the employee's immediate supervisor.

authority in an exploitative manner in relationships with others.

- (29) A whistle blower, who raises or wishes to raise an allegation against a university employee/employees, of a conflict of interest and/or conflict of commitment, related wrongdoing, or of institutional conflict(s) of interest, must respect the confidentiality of sensitive information and give legitimate institutional structures an opportunity to resolve the matter. Whistle blowers and other witnesses have the responsibility to raise their concerns honorably and with foundation. The university has a duty to undertake review and actions as appropriate and not to tolerate or engage in retaliation against whistle blowers. This duty includes providing appropriate and timely relief to ameliorate the consequences of actual or threatened reprisals, and holding accountable those who retaliate.
- (30) Responsibilities of the department chair or equivalent are:
- (a) To maintain a record of any outside activity disclosed by a university employee under his/her direction.
 - (b) To act in good faith to assist the university in implementation of this policy.
 - (c) To convey to the dean or administrative supervisor the concerns they, or others, have with this policy.
 - (d) To review and forward to the dean and senior research officer with his or her comments any case which appears to have a potential conflict of interest or conflict of commitment. Such comments should include actions recommended by the chair to manage or remedy the conflict(s).
- (31) Responsibilities of the dean or other administrative supervisor are:
- (a) To maintain a record of any outside activity disclosed by a university employee under his/her direction.
 - (b) To act in good faith to assist the university in implementation of this policy.
 - (c) To convey to the executive vice president and chief administrative officer the concerns they, or oicy.

supervision.

(C) Procedures for reports, certifications, disclosures, and approvals.

- (1) Disclosures and requests for approvals are to be directed first to the immediate administrative supervisor, as well as to the next higher level.
- (2) Regardless of whether the disclosure is disallowed or approved, the completed reports are to be sent to the employee's immediate supervisor for preapproval. The employee's immediate supervisor will forward the report to his/her immediate supervisor (i.e., college dean, division chair) for preapproval who will, in turn, forward the report to the appropriate central administrative officer (i.e., executive vice president and chief administrative officer) for final review and approval or denial. The executive vice president and chief administrative officer shall use best efforts to complete such review within thirty days from the date of receipt of the conflict disclosure forms. Forwarded annual disclosure reports will be kept in the appropriate central administrative office. Nothing in this paragraph shall be construed to prohibit disclosures required as defined in paragraph (B)(17) of this rule

(D) Procedure for investigation of alleged conflict of interest or conflict of commitment.

- (1) In cases in which an allegation of misconduct by a university employee is made, the senior research officer, general counsel or his designee(s) will take the following steps:
 - (a) Notify the appropriate dean or vice president of the person in question.
 - (b) Take appropriate interim actions to protect government and university funds and assure that the purposes of any governmental financial assistance are being carried out in the interim during the review process, as defined in paragraph (D)(6) of this rule.
 - (c) Meet with both the complainant(s) and the subject(s) thereof. Subject(s) of the allegations will be told, with specificity, the nature of such allegations and be given full opportunity to respond. They will be encouraged to supply any documentary information supportive of their position and given a reasonable time (ten working days) within which to do so. They will be encouraged to supply the names of any individuals or entities that could supply information helpful to

- (d) At this time the subject of investigation will be responsible for all fees or expenses in his/her defense of allegations.
- (2) Although a whistleblower enjoys a privilege to report allegations of misconduct, the office of research integrity states (position paper #1, the whistleblower's conditional privilege to report allegations of scientific misconduct, 1993), that abuse of the privilege may leave the whistleblower liable for defamation. In addition, this may subject a whistleblower who abuses the privilege to administrative action by the university as defined in paragraph (F)(11) of this rule. If the allegation of misconduct by the whistleblower proves unfounded, the university should take specific steps for redress of the rights of the unjustly subject of investigation. Among compensatory actions:
- (a) The university will become responsible for the defense expenses of the subject of investigation, if so ordered by a court of competent jurisdiction.
 - (b) The subject of investigation will be given the option to take legal action when appropriate, interview any identified witness(es) and review any and all documentation that might have a bearing on the outcome of the investigation.
 - (c) The university will report to appropriate federal or state agencies and university officials in accordance with federal and state requirements.
- (3) If a university employee is indeed found to have violated university policy or to have violated the terms of a memorandum of understanding or other terms which were required by the university in order to manage or eliminate a potential conflict of interest or conflict of commitment, the provost, in consultation with the senior research officer, the dean or administrative supervisor, the general counsel, and the inquiry committee, may recommend to the president one or more of the following disciplinary sanctions, for action by the university board of trustees:
- (a) Formal reprimand.
 - (b) Suspension from the university for a definite period.
 - (c) Dismissal from the university.
 - (d) Other remedial, corrective, or other action which is deemed appropriate.
- (4) Illegal acts under this policy may also be subject to prosecution by state and/or federal authorities separate from any university disciplinary sanctions. A university employee may appeal a negative decision and/or disciplinary sanctions in writing to the president, with a copy to the provost, within fifteen days of receipt of the notice of the decision. The president will consider the appeal in consultation with the inquiry committee; chair, dean or administrative supervisor, senior research officer, and/or provost as he or she deems appropriate; and with the general counsel and any

other upper management that he or she deems appropriate. The president will provide a decision on the appeal to the employee with a copy to the provost and general counsel, within thirty days of receiving the appeal. The decision of the president will be final, subject to the approval of the board of trustees.

(E) University principles for research and sponsored programs.

- (1) The university will deal legally and ethically with external sponsors of research and sponsored programs in ways that avoid institutional conflicts of interest. The same is expected of project personnel and sponsors.
- (2) The university will not enter into agreements contrary to its mission.
- (3) The university will not accept an award for a project that is unacceptable to the principal investigator. Once an award is accepted by the university, all parties are expected to fulfill their respective obligations under that agreement.
- (4) The university, its faculty, and its students will retain the right to use all data for research and educational purposes and to publish results in scholarly publications in accord with university policies. A delay of no more than one year may be mutually agreed upon to permit patent filings or other legal filings. To

specific approval by the board of trustees of the university. An option or a license may be negotiated in good faith and under reasonable terms and rates to share rights through a license with the sponsor, on a non-exclusive, exclusive-by-field-of-use, or similarly limited basis.

- (12) The university will not enter into agreements in which the names of the parties or the facts and terms of the agreement cannot be revealed, but the specific topic of the

- (3) Inquiry and investigation procedures for scholarly misconduct relating to university-related research or scholarship that is publicly disseminated.
 - (a) Reports of alleged scholarly misconduct may be submitted in writing to, and will be investigated under

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president.

- (8) If a violation of this policy involves a collateral proceeding under university policies regarding a conflict of interest or conflict of commitment, then the senior research officer will institute the conflict of interest and/or conflict of commitment review(s), but the provost will defer a final decision or sanctions on that matter until the scholarly misconduct inquiry and/or investigation procedure is completed.
- (9) The detailed documentation of any allegation, accusation, inquiry, investigation, and determination will be maintained by the office of general counsel of the university for at least three years from the date of determination, date of acceptance of a final report if any from the federal office of research integrity and/or any inspector(s) general involved, or at least three years from the termination of any related grant or contract, whichever date is later. Documentation must be provided when required by law or upon request of authorized government authorities.
 - (a) Departmental, college, committee, and other university records are to be retained confidentially to the extent permitted by law and may not be destroyed without the permission of the university's general counsel and the university archivist.
- (10) A whistleblower who raises or wishes to raise an allegation against a university employee of scholarly or scientific misconduct or related wrongdoing must respect the confidentiality of sensitive information and give legitimate institutional structures an opportunity to function in resolution.

organizations.

- (3) Conflict of commitment- a real or apparent competition of outside activities such that an independent observer might reasonably question whether the employee's professional actions or decisions are or will be adversely affected by competing outside activities and interests to the detriment of the employee's specific and primary duties to the university and its mission.
- (4) Conflict of interest- a real or apparent divergence between a university employee's private interests and his or her professional obligations to the university, such that an independent observer might reasonably question whether the individual's professional actions or decisions are or could be determined by considerations of private gain rather than by potential benefit to the university mission.
- (5) Family member- conflict of interest/commitment/nepotism- the "family" shall have the same meaning as defined by section 2921.42 of Revised Code (grandparents, parents, spouse, children, whether dependent or not, grandchildren, brothers and sisters, or a person related by blood or marriage residing in the same household). This will not apply in financial disclosures.
- (6) Family member- financial disclosure in connection with external funding - for purposes of considering issues of disclosure of financial interest and financial relationships, "family" shall be deemed to mean employee, spouse and dependent children.
- (7) Financial interest- anything of monetary value, including but not limited to salary or other payments for services (e.g., consulting fees); equity interests (e.g., stock options or other ownership interests); intellectual property rights (e.g., patents, copyrights, trademarks, trade secrets and royalties from such rights); and any other interest which an employee has in a business enterprise outside the university.
- (8) Intellectual property- an all-encompassing # M h

- (13) Outside activities- outside professional association activities and outside consulting activities.

- (d) Violation of accepted scientific procedures in making discoveries.
 - (e) Falsification of data.
 - (f) Abuse of confidentiality.
 - (g) Practices that seriously deviate from those that are commonly accepted within the scientific or academic community or discipline for proposing, conducting, or reporting research (not including honest error or honest differences in interpretations or judgments of data) or in publication, except that this is not intended to cover research or proposals or publications that may be protected as an exercise in academic freedom.
 - (h) Material failure to comply with federal requirements, including protection of researchers, human subjects, and the public; and/or to ensure the welfare and ethical care and use of laboratory animals.
 - (i) Failure to meet other material legal requirements governing research or sponsored programs.
- (19) Senior research officer- the university administrator named by the university to represent the university at the Ohio board of regents as chief research officer.
- (20) Significant financial interest- a financial interest beyond the following:
- (a) An equity interest in an entity that does business with the university of Akron that, when aggregated for the employee and the employee's family members, meets one of the following tests: exceeds ten thousand dollars in value as determined through reference to public prices or other reasonable measures of fair market value, and represents more than a five per cent ownership interest in any single entity as defined in paragraph (G)(6) of this rule.
 - (b) Salary, royalties, or other payments that, when aggregated for the employee and the employee's family members, exceeds ten thousand dollars in an entity doing business with the university of Akron.
 - (c) A significant financial interest does not include:
 - (i) Royalties or royalty-type income/remuneration from the university itself.
 - (ii) Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities.
 - (iii) Income from service on advisory committees or review panels for public or nonprofit entities,

