

# INDIANA UNIVERSITY

## Policy Concerning Conflict of Interest

**(By Action of the University Faculty Council: March 28, 2000)**

**(Will not be implemented until trustees have acted upon it)**

The trustees, administration, faculty, and staff of Indiana University all bear the responsibility of serving the research, teaching, and service mission of the University. That mission is enhanced by the sustained, active interaction of members of the University community with business, government, not-for-profit groups, professional societies, academic institutions, and other individuals and organizations. In addition, members of the University community have the right to participate actively in community, political, religious, and cultural activities and institutions, and other personal and economic endeavors.

These many interactions inherently create the potential for conflicts of interest in which University employees' external activities, income, or other interests affect—or appear reasonably likely to affect—the manner or extent to which those individuals carry out their University responsibilities. Such conflicts—real or apparent—undermine public and professional confidence in the University and interfere with its mission. The existence of a real or potential conflict of interest does not necessarily mean that the activity at issue must be avoided or discontinued. Often, conflicts of interest can be dealt with effectively through disclosure or other steps to resolve or manage the conflict.

This document sets forth University policy on the avoidance, disclosure, management, and resolution of conflicts of interest. Recognizing the broad variety of both professional settings in which conflicts may occur and means of responding to them, this Policy specifies only the basic principles that should guide the resolution of conflicts of interest and the requirements necessary to conform with State and Federal law. It is the responsibility of the Chancellors to ensure that each Campus, or all of the Schools or Departments within a Campus, adopt specific conflict of interest policies and procedures, consistent with University policy and Federal and State law.

*This Policy addresses conflicts of interest, broadly defined as those circumstances in which the University employees' external activities, income, or other interests affect—or appear reasonably likely to affect—the manner or extent to which those individuals carry out their University responsibilities. This can include what some universities have labeled “conflicts of commitment.”*

*This Policy does not attempt to define the substantive responsibilities of members of the University community, beyond the broad concepts of research, teaching, and service. Such a definition would be both inappropriate in a conflicts of interest policy and impossible, given the wide variety of expectations among the many disciplines and professions within the University. Under this Policy, the determination of University employees' substantive responsibilities (what this Policy refers to*

*as “University responsibilities”), as well as, the identification, management, and/or resolution of conflicts of interest are to take place at the local level, guided by local policies and procedures. This Policy applies to both faculty and staff, except as specifically noted below. The Policy recognizes, however, that it may be necessary for it to be implemented through different procedures for different categories of University employees. The Policy contemplates that similarly situated persons within a category will be treated the same.*

*The Medical School and the Indianapolis campus already have in place well-developed conflict of interest policies and procedures. This Policy is generally consistent with those existing policies and procedures and should require little if any amendment to them.\**

## **1. Definitions**

- a. “Activities outside of the University” and “outside activities” are defined as activities not directly related to the research, teaching, and service mission of the University.
- b. “University activities,” by contrast, are defined as activities directly relating to the research, teaching, and service mission of the University.

*The line separating “University activities” and “activities outside of the University” for faculty is imprecise at best and may differ among disciplines and professions. One useful guideline for faculty is the question: Is this an activity a faculty member would list on his or her annual faculty report and expect to receive credit for during the tenure, promotion, or salary-setting processes?*

- c. “University responsibilities” are defined as the responsibilities of a University employee to perform University activities as defined by University or unit policy, contract, or collective bargaining agreement.
- d. “Professional activities” are defined as activities related to either the research, teaching, or service mission of the University, or an employee’s discipline, profession, or craft, irrespective of whether those activities are compensated or constitute University activities.
- e. “Dependent” is defined as any person who receives more than one-half of his or her annual support from an employee, whether or not related to that employee.
- f. “Employee” is defined as any person employed by Indiana University, whether full- or part-time.

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\*The text in italics is commentary and is submitted for adoption along with the Policy.

- g. “Family members” are defined as the member’s spouse and dependent children.

- h. “Financial interest” is defined as anything of monetary value, including salary, commissions, consulting fees, honoraria, equity interests, interests in real or personal property, dividends, royalties, rent, capital gains, intellectual property rights, and forgiveness of debt, other than:
  - i. compensation from Indiana University or pursuant to Indiana University royalty-sharing policies;
  - ii. income from seminars, lectures, or other educational activities sponsored by not-for-profit entities;
  - iii. income from service on advisory committees or review panels for public or not-for-profit entities; or
  - iv. any financial interest arising solely by means of investment in a mutual, pension, or other institutional investment fund over the management and investments of which the member of the University community does not exercise control.
- i. “Indiana University” or the “University” shall refer to Indiana University and to any foundation associated with Indiana University.
- j. A financial interest is “significant” if:
  - i. it is an equity or similar interest which exceeds \$10,000 or represents more than a 5 percent ownership interest in any one enterprise or entity, when aggregated for the member and his or her family members; or
  - ii. it is salary, royalties, or similar payments which exceed, or are expected to exceed, \$10,000 within any one-year period, when aggregated for the member and his or her family members.
- k. “Statement of Compliance” is defined as the “Statement of Compliance With State Law on Conflicts of Interest and Federal Law on Financial Conflicts of Interest in Research,” published in the *Academic Handbook*, and any amendments thereto.
- l. “University Research Policy Committee” is defined as the University Research Policy Committee or its successor.

*The definitions of “dependent” (e), “family members” (g), “financial interest” (h),*

*and “significant” (j) are established by Federal law.*

**2. Responsibility of University Employees**

- a. University employees share an obligation to conduct their professional affairs in a manner consistent with the University's mission and to conduct their relationships with each other and with the University with candor and integrity.
- b. Pursuant to that obligation, employees share an obligation to identify and, when possible, avoid conflicts of interest. When they cannot be avoided, employees must disclose conflicts of interest and work with University officials to manage or resolve those conflicts.

**3. Interests in University Purchases or Contracts**

- a. Under Indiana State law, University employees and their dependents are prohibited from having an aggregate financial interest of \$250 or more per year in, or deriving an aggregate profit of \$250 or more per year from, any contract(s) or purchase(s) connected with the University without first obtaining the written approval of the Board of Trustees.
- b. The specific requirements of Indiana State law are detailed in the Statement of Compliance.

**4. Federally Funded Research**

- a. Under Federal law, University employees who are engaged in the design, conduct, or reporting of Federally funded research and their family members must disclose any significant financial interest that would reasonably appear to directly and significantly affect, or be directly and significantly affected by, that research.
- b. Such disclosures must be made prior to the application for Federal funding or as soon as possible after the potential conflict arises.
- c. The specific requirements of Federal law are detailed in the Statement of Compliance.

**5. Other Research, Teaching, Service, or Professional Activities**

- a. University employees must disclose any significant financial interest of themselves or their family members that would reasonably appear to directly and significantly affect, or be directly and significantly affected by, the research, teaching, service, or other professional activities in which they are engaged, and any financial interest of themselves or their family members in external institutions, the financial interests of which would reasonably appear to directly and significantly affect, or be directly and significantly affected by, such activities.
- b. Disclosures under this Policy shall be made as soon as possible after the potential conflict arises to the official designated by the applicable policies on conflicts of interest.
- c. If an application for external funding is involved, disclosures under this Policy shall be made prior to submitting the application or as soon as possible after the potential conflict arises.

## **6. Activities Outside of the University (Conflicts of Commitment)**

- a. University employees may engage in activities outside of the University, provided that those activities do not interfere with the employees' performance of their University responsibilities or otherwise constitute a conflict of interest.
- b. No employee shall use University resources in the performance of outside activities without the permission of his or her dean or unit head and without compensating the University.
- c. Full-time faculty shall be permitted to spend one day each week on professional activities other than University activities, provided that those activities do not otherwise constitute a conflict of interest.
- d. A faculty member's compliance with this section or with any other University or unit policy on conflicts of commitment shall not be determined on the basis of income earned from outside activities or the percentage of the faculty member's University compensation that such income constitutes, unless required by law.
- e. Each Campus, School, or the Departments within a School, shall adopt policies and procedures implementing this Policy and specifying the University responsibilities of full-time faculty within their respective units, taking into account the variety of norms and expectations of the disciplines and professions involved. Such policies

and procedures shall not be inconsistent with this Policy.

*This section sets forth four basic principles applicable to all outside activities: (1) University employees are permitted and encouraged to engage in those activities to the extent that they do not interfere with the employees' University responsibilities; (2) employees may not use University resources in the performance of outside activities without compensating the University and obtaining appropriate permission; (3) the resolution of these issues shall be governed whenever possibly by local policies and procedures; and (4) the limit on those local policies is that they may not interfere with the University's longstanding policy permitting faculty to spend one day per week on professional, but not necessarily University, activities, and may not substitute for, or add to, that one-day-per-week policy a 20 percent of compensation rule. (The 20 percent rule is currently an administrative practice, not a policy, of the University, and is not enforced because of inequitable impact.)*

*Like all parts of this Policy, this section will be implemented by local policies and procedures. However, this section specifically charges Schools, or the Departments within a School, with adopting policies that define in general terms the substantive University responsibilities of full-time faculty. Those local policies and procedures must be consistent with this Policy, including the requirements that full-time faculty be permitted to engage in professional activities outside of the University for one day each week, and that compliance with this or other policies relating to conflicts of commitment be measured without reference to compensation.*

*The reference in Section 6(c) to "full-time" faculty reflects the conclusion that University policy need not provide that part-time faculty be permitted at least one day each week to engage in professional activities outside of the University, because University policy does not, and should not, place any limit on the time that part-time faculty spend on outside activities. Part-time faculty, however, are subject to Sections 6(a) and (b) and the other sections of this Policy.*

## **7. Disclosure Policies and Procedures**

- a. Disclosure shall be made, when necessary, pursuant to the applicable Campus, School, or Department policies and procedures on conflicts of interest. These policies and procedures shall be designed to facilitate the local resolution or management of any conflict, minimize administrative burden, and protect the privacy of University employees and their family members. There may be different policies and procedures for disclosure by different categories of University employees.
- b. All such policies and procedures shall be consistent with the following:



- i. It is the obligation of each employee to disclose potential or real conflicts of interest.
- ii. The employee shall disclose as soon as possible after he or she is aware of the potential or real conflict of interest. Except as required by law, employees shall not be subject to burdensome or random disclosure requirements. This shall not restrict the use of disclosure as a means of avoiding, resolving, or managing an on-going conflict of interest.
- iii. Disclosure shall be made to the official designated by the applicable policies on conflicts of interest. The purpose of the disclosure is to allow the official to whom the information is disclosed to facilitate the avoidance, timely resolution, or effective management of a conflict of interest. Disclosure policies should require no more information than is necessary for this purpose.
- iv. Disclosures shall be kept confidential by the officials receiving them. Disclosure should not be part of the collection of unrelated data (*e.g.*, annual reports), and information reported should not be further disclosed without the consent of the person making the disclosure, except as required by law (*e.g.* application of the open records law) or University policy. Disclosure documents shall be destroyed as soon as appropriate and in accordance with applicable legal requirements.

## **8. Conflict Resolution and Management**

- a. Conflicts of interest shall be avoided, resolved, or managed, when necessary, pursuant to applicable policies and procedures on conflicts of interest. These policies and procedures shall be designed to facilitate the local resolution or management of any conflict, minimize administrative burden, and protect the privacy of University employees and their family members. There may be different policies and procedures for managing or resolving conflicts of different segments of the University community.
- b. Any University employee may request advice about a potential conflict of interest from the University Research Policy Committee, without being required to disclose his or her name or identifying details of the potential conflict. Any unit of the University may request advice about a potential conflict of interest from the University Research Policy Committee, provided that no more identifying

information than necessary should be disclosed unless required by law or University policy.

- c. Potential or real conflicts of interest shall be avoided, resolved, or managed, when necessary, locally whenever possible. Each Campus shall determine at what level (Department, School, or Campus) “local” responsibility for conflicts of interests shall reside. This determination may differ for different categories of University employees. Should any unit at a level responsible for managing or resolving conflicts of interest fail to enact an appropriate policy and/or procedures, employees within that unit shall be subject to the conflict of interest policy and/or procedures of the next highest level (*e.g.*, a School without a policy would follow the policy of the Campus on which it is located). If a Campus has not enacted a conflicts of interest policy and/or procedures, employees on that Campus shall be subject directly to this Policy and to those procedures applicable to the Bloomington campus.
- d. In the event it is not possible to resolve a conflicts issue successfully at the Campus level, the matter shall be referred to the Vice President for Research, advised by the University Research Policy Committee.
- e. The University Research Policy Committee shall be charged with monitoring and recommending changes, as necessary, to University conflict of interest policies; advising units of the University on the development of local conflict of interest policies; facilitating discussion within the University about, and awareness of, conflict of interest issues; and recommending measures for resolving or managing specific conflict of interest cases.

## **9. Enforcement**

- a. Enforcement of University policies on conflicts of interest is the ultimate responsibility of the President and the Board of Trustees, who may delegate that responsibility to other University officials pursuant to this Policy and those enacted by individual Campuses, Schools, or Departments. Principal responsibility for implementation and enforcement of this Policy shall reside with the Vice President for Research, advised by the University Research Policy Committee.
- b. Violations of University policies on conflicts of interest, including the failure to file timely disclosures; filing incomplete, erroneous, or inaccurate disclosures; or failure to comply with prescribed procedures for managing or resolving conflicts

of interest, will be dealt with in accordance with applicable University policies and procedures.

- c. Appeals from administrative decisions concerning conflicts of interest are subject to applicable University policies and procedures concerning review of administrative decisions.