

Utah Tech University Policy

157: Personal Conduct/Conflict of Interest



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I. Purpose

- 1.1 This policy is intended to promote the public interest and strengthen public confidence in the integrity of Utah Tech University (the “University”) by establishing standards and procedures for employees to follow when there are actual or potential conflicts of interest between their duties/responsibilities to the University and their private interests. This policy recognizes the existence of conflicts within a University setting and prioritizes management of apparent and actual conflicts of interest.
- 1.2 This policy preserves for Employees the same opportunities available to all citizens of the State of Utah to acquire private economic or other interests provided that such opportunities do not interfere with the full and faithful discharge of Employees’ University duties or otherwise disadvantage the University.

II. Scope

- 2.1 This policy applies to all Utah Tech University Employees (“University Employees”), and any party conducting business with the University.
- 2.2 This policy applies to all official University business and the University Employee that represents Utah Tech University. The public's impression of the University is determined by the actions of University Employees.
- 2.3 Just as the University has responsibilities toward its Employees by accepting or continuing employment at the University, all Employees have an affirmative duty to comply with the standards of ethical conduct described in this policy, all federal and state regulations, laws, and administrative guidelines.

III. Definitions

- 3.1 **Actual Conflict of Interest:** A situation where a Conflict of Interest is currently manifested.
- 3.2 **Apparent Conflict of Interest:** A situation that may appear to a reasonable observer as a Conflict of Interest, whether or not a Conflict of Interest actually exists.
- 3.3 **Area Specialist:** An individual with specialized knowledge in a particular field who may be used as a consultant by the Conflict of Interest Review Committee in reviewing Conflict of Interest Disclosure Forms and proposed Conflict of Interest Management Plans.
- 3.4 **Business Entity:** A sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity that carries on a trade or business, including parent organizations of such entities, or any other arrangement in which an entity operates through a subsidiary.
- 3.5 **Compensation:** Anything of economic value, however designated, which is paid, loaned, gifted, granted, given, donated, or transferred to any person or Business Entity for or in consideration of personal services, materials, property, or the like.
- 3.6 **Conflict of Allegiance:** When an Employee's loyalty and devotion is divided between outside personal or professional obligations or activities and responsibilities to the University such that the appearance or potential for bias compromise an individual employee's objectivity, professional judgment or integrity, and/or ability to perform their responsibility to the University is created.
- 3.7 **Conflict of Interest:** When a University Employee owes a professional obligation to the University, which is, or can be compromised by, the pursuit of an outside interest; or a University Employee has a Conflict of Allegiance; or, has a Conflict of Time/Commitment; or has a Financial Conflict of Interest.
- 3.8 **Conflict of Interest Disclosure Form (Disclosure Form):** The University form to be used to disclose actual, apparent, or potential conflicts of interest.
- 3.9 **Conflict of Interest Review Committee:** A three-person committee composed of one University Employee from each of the following departments: Human Resources, Business Services, and University Risk. Other persons with useful expertise or knowledge may be invited to

participate on the Conflict of Interest Review Committee as needed.

- 3.10 **Conflict of Time/Commitment:** When personal or professional activities external to the University position or appointment exceed reasonable time limits and adversely impact the Employee's professional responsibilities. A conflict of time/commitment can exist whether or not an Employee receives financial gain or remuneration for external or non-assigned activities.
- 3.11 **Conflict Management Plan:** A written plan of action developed between the University and an Employee by which an Actual Conflict of Interest or Apparent Conflict of Interest can be managed, mitigated, or eliminated. A Conflict Management Plan typically requires the oversight of the Employee's immediate supervisor.
- 3.12 **Designee:** A person who has been designated to receive Monetary Compensation/Gifts on behalf of a University Employee or a University Employee's Family or Friend/Acquaintance.
- 3.13 **Employee:** Any person who is employed by the University, whether full-time or part-time.
- 3.14 **Family:** An Employee's Relative or Household Member as defined in University Policy 303.
- 3.15 **Financial Conflict of Interest:** When an Employee or Employee's Family has received, receives, or will receive Compensation or other payment for services, equity interests, or intellectual property rights that do or may conflict with the interests of the University; its students, faculty, or staff; or the State of Utah. If an Employee is in a position to influence a University direction or decision or to use University resources in such a way that may lead to the personal financial gain of the Employee or of the Employee's Family/ Friend/ Acquaintance, or Designee, a Financial Conflict of Interest exists.
- 3.16 **Financial or Other Interest:** Anything of monetary value, including but not limited to salary or other payments for services; equity interest (e.g., stocks, stock options, or other ownership interest); intellectual property rights (e.g., patents, copyrights, and royalties from such rights). "Financial or other interest" also means the holding of a position as an officer, director, agent, or employee of a Business Entity. "Financial or other interest" includes such interest held by an Employee or by an Employee's Family Friend/ Acquaintance, or Designee. However, financial or other interest does not include salary, royalties, or other Compensation received by the Employee from the University; income from seminars, lectures, or

teaching engagements sponsored by public or nonprofit entities; or income from service on advisory committees or review boards/panels for public or nonprofit entities.

- 3.17 **Friend/Acquaintance:** For the purposes of this policy, Friend/Acquaintance includes the Employee's personal friendships and family friendships, including but limited to business associates, close friends, and neighbors.
- 3.18 **Legal Counsel:** Attorneys in the Office of General Counsel assigned to assist the University's divisions, units, departments, administrators, and Employees in complying with applicable state and federal laws, regulations, and statutes, as well as Utah Board of Higher Education's (UBHE) and University policy.
- 3.19 **Intellectual Property:** Any ideas, inventions, technology, creative expression, and embodiments thereof, in which a proprietary interest may be claimed, including but not limited to patents, copyrights, trademarks, know-how, and biological materials.
- 3.20 **Investigator:** The principal Investigator/project director, or any faculty, staff, postdoctoral appointee, resident or student, whether paid by the University or not, who is responsible for, or participates in the design, conduct or reporting of research or scholarly activities conducted in whole or in part at the University.
- 3.21 **Monetary Compensation/Gift:** Includes money, honoraria, non-pecuniary gifts, excessive Compensation or non-commercial loans. For the purposes of this policy, a gift does not apply to occasional non-pecuniary gifts that have an insignificant monetary value, as defined by the *Utah Public Officers' and Employees' Ethics Act*, which would not tend to improperly influence an Employee in the discharge of his/her duties.
- 3.22 **Social Conversation:** A general term for small talk, or light conversation. Any kind of talk that is not task/work-oriented or in a work-related setting or environment.
- 3.23 **University Business:** Occasions when an employee is representing the interests of the University and performing activities in support of the administrative and academic mandates of the University. This includes all activities performed as part of the employee's official job duties, both verbal and written.
- 3.24 **University Business Day:** Any day the University is open for business (excludes weekends, holidays, and University closures).

IV. Policy

4.1 Conditions of Employment

- 4.1.1 Employees are expected to abide by and observe the following conditions of employment at all times:
 - 4.1.1.1 Punctuality, willingness to be of service, courtesy, cooperation, and other acceptable standards of behavior.
 - 4.1.1.2 Demonstrating honesty and integrity in their business and personal dealings and in their public service commitments.
 - 4.1.1.3 University Business should not be discussed in Social Conversation, nor discussed with other Employees or non-employees, unless for the specific purpose of furthering University Business.
 - 4.1.1.4 The ability to maintain confidentiality is a condition of employment.
- 4.1.2 It is the responsibility of each Employee to ensure that the Employee understands the terms of their employment with the University and to give a full measure of time and talent, based on employment status (e.g., full-time vs. part-time), standard or department-specific University Business hours, etc.
- 4.1.3 The University recognizes that the personal life of an Employee is not an appropriate concern of the University, provided it does not affect an Employee's effectiveness in fulfilling their obligations.
- 4.1.4 Employees will not solicit support for any political candidate, issue, or referendum during working hours.
- 4.1.5 Employees are not allowed to solicit for organizations or distribute literature during working hours.
- 4.1.6 Employees may express their opinions to the media, such as in letters to the editor. However, unless explicit written approval is granted by the President, Administration, or the Board of Trustees, Employees will not identify themselves as spokespersons for the University. Without such approval, use of the University letterhead is also prohibited.

4.2 Conflict of Interest Expectations

- 4.2.1 An Employee must avoid any Conflict of Interest unless properly disclosed and properly managed through a University Conflict of Interest Management Plan, if applicable.
- 4.2.2 An Employee should not use their University position to influence any transaction for the Employee's personal/ Family/ Friend/ Acquaintance/ Designee's benefit, or to conduct any business in which the Employee/ Family/Friend/Acquaintance/Designee has an interest.
- 4.2.3 An Employee is expected to make full disclosure to their supervisor, in writing, of any Conflict of Interest (Apparent, Actual, or Potential). (See Procedure 6.1 for disclosing a Conflict of Interest)
- 4.2.4 To fulfill the requirements of the *Utah Public Officers' and Employees' Ethics Act* (Utah Code Title 67 Chapter 16 §1 – 15), University Employees are required to disclose certain conflicts of interest, including disclosure to the state Attorney General's Office. The interests of members of an Employee's immediate household, including spouse and dependent children, may also create the need for disclosure and/or actions to mitigate an Employee's Conflict of Interest.
- 4.2.5 Nothing in this policy restricts the University, state, or other authorities from taking criminal or civil action against an Employee who violates the Conflict of Interest Policy and/or does not comply with an established Conflict Management Plan. Nothing in this policy prevents other individuals or entities from bringing suit against an Employee or third-party who violated the Conflict of Interest Policy. In such cases, the Employee may not be entitled to the protections of governmental immunity.
- 4.2.6 Some examples of Conflict of Interest situations include, but are not limited to:
 - 4.2.6.1 An Employee representing or influencing the University in University Business with an organization in which the Employee owns an interest.
 - 4.2.6.2 An Employee personally benefiting from the purchase of surplus property if the Employee participated in the University's decision to sell such property.
 - 4.2.6.3 An Employee or student receiving work assignments of a personal nature during the hours they are working for the

University.

- 4.2.6.4 An Employee's private use of University equipment or facilities, without supervisory approval, unless rented under the same conditions as offered to non-Employees.
- 4.2.6.5 Personal use of supplies: When expendable supplies are used, Compensation to the University is required.
- 4.2.6.6 An Employee using information obtained through their employment for personal gain.
- 4.2.6.7 An Employee accepting a valuable gratuity or special favor from an individual or an organization with which the University does or may do business.
- 4.2.6.8 An Employee using a University position to obtain a personal privilege or to provide credibility or support to a private undertaking.
- 4.2.6.9 An Employee participating in their official capacity with respect to any transaction between the University and a Business Entity in which the Employee has a financial interest;
- 4.2.6.10 An Employee receiving Compensation (in addition to regularly budgeted salary or wages for services to the University) as a result of, or in connection with, any transaction between the University and a Business Entity in which the Employee, Family, Friend/ Acquaintance, or Designee has a financial interest;
- 4.2.6.11 An Employee accepting employment or engaging in any business or professional activity in which the Employee may be required or induced to disclose confidential information acquired by reason of the Employee's University position;
- 4.2.6.12 An Employee accepting other employment, which might impair the Employee's independence of judgment in the performance of the Employee's University duties and responsibilities;
- 4.2.6.13 An Employee knowingly receiving, accepting, taking, seeking, or soliciting directly or indirectly, any Monetary Compensation/Gift or loan for themselves, Family, Friend/Acquaintance, or Designee, if it tends to influence the

discharge of the Employee's University duties or responsibilities, or if the Employee has recently been, now is, or in the near future may be involved in any action or decision directly affecting the donor or lender; or

4.2.6.14 An Employee having a personal investment in any Business Entity, which will create a conflict between the Employee's private interests and the Employee's University duties.

4.2.7 In the event of an employment of a Relative or Household Member, refer to Policy 303: Employment of Relatives/Nepotism to resolve a potential conflict.

4.3 Conflict of Interest involving Research, Innovation, Intellectual Property, and Procurement

4.3.1 Research and Scholarly Activity

4.3.1.1 Disclosure is required when an Investigator has a financial or other interest that could affect the approval, design, conduct, or reporting of funded research or innovation.

4.3.1.2 Disclosure is also required when all the following apply:

4.3.1.2.1 An Employee or Family, Friend/Acquaintance, or Designee has a financial or other interest in a sponsor of research or innovation;

4.3.1.2.2 The Employee has responsibility for designing, conducting, or reporting the research or innovation;

4.3.1.2.3 The research or innovation will involve subordinates; and

4.3.1.2.4 The Employee will provide an academic or employment evaluation of the subordinate based in part upon the subordinate's work on the research project or innovation, or restrictions will be placed on the publication rights of the subordinate.

4.3.1.3 Disclosure is required when an Investigator has significant financial or other interest in any clinical research or innovation.

4.3.2 Intellectual Property Activity

- 4.3.2.1 Disclosure is required when an Employee is a named inventor of Intellectual Property owned by the University and the Employee has a financial or other interest in a Business Entity related to the Intellectual Property.

4.3.3 Procurement Activity

- 4.3.3.1 Disclosure is required when a University Employee, officer, or Family, Friend/Acquaintance, or Designee has a financial or other interest in a Business Entity proposing to enter into a transaction with the University and that University Employee, officer, or Family, Friend/Acquaintance, or Designee is in a position to influence the outcome of the University's decision on that transaction.
- 4.3.3.2 Disclosure is required when an Employee or Family, Friend/Acquaintance, or Designee has a significant or other interest in a Business Entity that provides goods or services, the University provides the same or similar goods and services, and the Employee is in a position to direct potential purchasers of the goods and services away from the University and to the Business Entity. This provision does not cover consulting faculty or staff.

4.4 Confidentiality

- 4.4.1 Subject to *Government Records Access and Management Act* (GRAMA) and all other applicable state and federal laws, all records and information provided by an Employee for the purpose of disclosure and management of a conflict shall be considered a private and/or protected record under GRAMA and shall be used solely for the purpose of administering this policy and may not be used for any other purpose unless required by law.
- 4.4.2 The University's Office of General Counsel, or the President's Designee, shall maintain a centralized confidential file of Conflict of Interest Disclosures and the Conflict of Interest Management Plans.
- 4.4.3 Improper disclosure of any such information by an Employee shall be deemed to be unethical behavior and may subject the Employee to discipline, in compliance with applicable University policy, up to and including termination.

V. References

- 5.1 42 CFR Part 50, Subpart F (Responsibility of Applicants for Promoting Objectivity in Research)
- 5.2 Conflict of Interest Disclosure Form (Disclosure Form)
- 5.3 Conflict of Interest Management Plan (Template)
- 5.4 University Policy 303: Employment of Relatives/Nepotism
- 5.5 University Policy 633: Faculty Rights and Responsibilities
- 5.6 University Policy 662: Sponsored Programs (Grants, Contracts, Cooperative Agreements)
- 5.7 IRS, *FAQs for Government Entities Regarding De Minimis Fringe Benefits*
- 5.8 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards CFR Title 2, Subtitle A, Chapter II, Part 200, §200.112 and 113 Conflict of Interest and Mandatory Disclosures
- 5.9 Utah Code §63-2 (2) (1992) *Government Records Access and Management Act (GRAMA)*
- 5.10 Utah Code §67-16-5 (3) (a) *Utah Public Officers' and Employees' Ethics Act*

VI. Procedures

- 6.1 Disclosure of Actual, Apparent, and Potential Conflicts of Interest
 - 6.1.1 While any Conflict of Interest must be disclosed to an Employee's immediate supervisor at the time of hire and annually thereafter, every Employee shall also immediately disclose each Actual, Apparent, and Potential Conflict of Interest when such Conflict of Interest first arises. Disclosure is the key mechanism to bring Actual, Apparent, and Potential Conflicts of Interest to light for evaluation and oversight.
 - 6.1.1.1 An Employee must complete and submit to the Employee's immediate supervisor a Conflict of Interest Disclosure Form and must receive approval from the Conflict of Interest Committee prior to engaging in any potentially prohibited activities.
 - 6.1.1.2 A Conflict of Interest Disclosure Form must be submitted any time a new Conflict of Interest arises or at the first

recognition that a potential Conflict of Interest may exist or has existed.

- 6.1.1.3 When submitting a Conflict of Interest disclosure, an Employee should work with the Employee's immediate supervisor to create a proposed Conflict of Interest Management Plan.
- 6.1.1.4 Within three (3) University Business Days of receiving a Conflict of Interest Disclosure Form and a proposed Conflict of Management Plan from an Employee, the Employee's immediate supervisor will submit the form to Legal Counsel to ensure review by the Conflict of Interest Review Committee and the University's assigned Utah Assistant Attorney General.

6.2 Evaluation of Conflict of Interest and proposed Conflict of Interest Management Plans

6.2.1 Conflict of Interest Review Committee

- 6.2.1.1 Upon the Conflict of Interest Review Committee's receipt of a Conflict of Interest Disclosure Form and any proposed Conflict of Interest Management Plan, or upon the University's own identification of a Conflict of Interest, the Conflict of Interest Review Committee will determine if it is necessary to address the Actual, Apparent, or Potential Conflict of Interest. The Conflict of Interest Review Committee may involve an Area Specialist for assessment and handling of the Conflict of Interest, if needed.
- 6.2.1.2 The Conflict of Interest Review Committee will determine if a Conflict of Interest exists. If no Conflict of Interest exists, then the Employee and Employee's immediate supervisor will be notified within five (5) Business Days and no further action will be required. However, if an Actual, Apparent, or Potential Conflict of Interest does exist, the Conflict of Interest Review Committee must then determine if the Conflict of Interest can be managed by a Conflict of Interest Management Plan. If the Committee determines that the Conflict of Interest cannot be managed, the Employee and the Employee's immediate supervisor shall be notified within five (5) Business days and the Employee must not engage in the transaction/relationship/conduct.

6.2.2 Conflict of Interest Management Plan Requirements

- 6.2.2.1 Whether a proposed Conflict of Interest Management Plan is submitted by the Employee's supervisor in conjunction with the Conflict of Interest Disclosure Form, or whether a Conflict of Interest Management Plan needs to be developed, the Employee, the Employee's immediate supervisor, and the Conflict of Interest Review Committee with input from the Area Specialist (if needed), shall work together to develop an acceptable Conflict of Interest Management Plan. An Employee may not engage in any activity/ transaction/ relationship in which a Conflict of Interest may exist without a Conflict of Interest Management Plan approved by the Conflict of Interest Review Committee.,
- 6.2.2.2 Once a Conflict of Interest Management Plan is approved, the Conflict of Interest Review Committee will distribute the Conflict of Interest Management Plan to Legal Counsel, the Employee, the Employee's immediate supervisor, the Area Specialist (if involved), and the appropriate vice president. The Employee is responsible for compliance with the Conflict of Interest Management Plan, and the Employee's immediate supervisor is responsible for oversight of the Conflict of Interest Management Plan.
- 6.2.2.3 The Employee and the Employee's immediate supervisor must confirm annually in the Employee's evaluation that the Employee is in compliance with the Employee's Conflict of Interest Management Plan.

6.3 Appealing a Conflict of Interest

- 6.3.1 An appeal of any decision of the Conflict of Interest Review Committee or the Conflict of Interest Management Plan may be made to the Employee's President's Cabinet-level administrator within ten (10) University Business Days of the Employee's receipt of such a decision.
- 6.3.2 All appeals must be in writing and should include all pertinent information and any related documents.
- 6.3.3 A decision on the appeal shall be made within ten (10) University Business days, and such decision shall be final and binding.

6.4 Disciplinary Actions

- 6.4.1 In the event of any confirmed violation of this policy or of any Conflict of Interest Management Plan, the Employee's President's Cabinet-level administrator may impose appropriate disciplinary action(s), including but not limited to the following:
- 6.4.1.1 Employee discipline proceedings, including but not restricted to reprimands, fines, probation, suspension, dismissal, the freezing of sponsored program funds, etc., pursuant to applicable disciplinary policies and procedures;
 - 6.4.1.2 Withholding payment owed under a procurement contract relating to the Conflict of Interest;
 - 6.4.1.3 Legal action to rescind a University contract entered into in violation of this policy or state law; and
 - 6.4.1.4 Other appropriate action(s) as required by state and federal law, such as, but not limited to the filing of criminal complaints pursuant to the *Utah Public Officers' and Employees' Ethics Act* and reporting Conflict of Interest violation(s) to external agencies or sponsors.

VII. Addenda—N/A

Policy Owner: General Counsel
Policy Steward: General Counsel

History:
Approved 3/21/96
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