

Indiana University Statement of Compliance with State Law on Conflicts of Interest and Federal Law on Financial Conflicts of Interest in Research

BL-ACA-17



About This Policy

Effective Dates:

04-11-1995

Last Updated:

04-11-1995

Responsible University Office:

Office of the Provost

Scope

All units on the Bloomington campus.

Policy Statement

Implementation

STATE

Indiana law generally declares it a crime for a public employee to knowingly or intentionally derive a pecuniary benefit from transactions between the employee and his or her public employer. The law provides certain defenses to a charge of conflict of interest, including disclosure of the conflict to and acceptance of the disclosure by the public employer. To avoid criminal penalties, therefore, University employees should disclose to the Board of Trustees of Indiana University any situations likely to result in a contract involving a purchase, sale, or services or other matter, between the University and the employee or employee's dependents. This law does not apply to the normal contract of employment. Advance approval of a transaction by the University's trustees insulates the transaction from criminal prosecution. The law defines "dependents" as (1) the employee's spouse; (2) a child, stepchild, or adoptee of the employee who is unemancipated and less than 18 years of age; and (3) any individual more than one-half of whose support is provided during a year by the employee (from Indiana State Statute IC 35-44-1-3).

UNIVERSITY RULES FOR ALL FEDERALLY-FUNDED SPONSORED PROGRAMS

Investigators are responsible for disclosing their Financial Interests and those of their Family Members (1) that would reasonably appear to be affected by Sponsored Programs in which they are engaged and/or which are funded or proposed for funding by a federal source or (2) in External Entities whose Financial Interests would reasonably appear to be affected by such activities. Disclosures are to be made in accordance with the procedures established under this Policy.

A conflict of interest exists when the reviewer of Investigator disclosures reasonably determines that a significant Financial Interest of an Investigator or his or her Family Members could directly and significantly affect the design, conduct, or reporting of the Research or educational activities funded or proposed for funding by a federal source.

AAUP STATEMENT ON GOVERNMENT-SPONSORED RESEARCH

A statement of conflict situations in government-sponsored work has been prepared jointly by the American Association of University Professors and the American Council on Education and is subscribed to by Indiana University. It appears as an Appendix to this Policy and is meant to be a general policy statement only.

RESOLUTION OF CONFLICTS

Conflicts of interest other than those arising under State Law will be resolved at the campus level. Conflicts of interest under State Law will be reported to and resolved by the Board of Trustees.

Authority

Campus **Chancellors/Provost** are responsible for establishing procedures for:

- Investigators on their campuses to make the required disclosures.
- Review of disclosures by appropriate University official(s) and/or committee(s) to determine whether a conflict of interest exists.
- Resolution of conflicts of interest, including determination of any conditions or restrictions that should be considered in order to manage, reduce, or eliminate a :conflict.
- Regular updating of disclosed information.
- Enforcement of this Policy and dealing with noncompliance.
- Maintenance and retention of records of disclosures and conflicts of interest. Records must include all actions taken by the University with respect to each :conflicting interest.
- Reporting to the Vice President for Research any identified conflicts of interest and whether and in what manner they have been resolved.

The Vice President for Research of Indiana University is responsible for:

- Overseeing the implementation of this Policy throughout Indiana University.
- Reporting to applicable federal agencies identified conflicts to the extent and in the manner required by federal law.

Timing

All disclosures of Financial Interests must be made prior to submission of proposals for funding from federal External Entities. In addition, further requirements imposed by External Entities, including but not limited to resolution of conflicts of interest prior to submission of proposals or within other specified time frames, must also be met.

Retention of records

Records relating to conflicts of interest are to be retained by the University for at least three years after the later of:

1. the termination or completion of the contract or award to which they relate (as determined by the funding agency);
or
2. the resolution of any action involving those records.

Enforcement

The Vice President for Research has ultimate responsibility for confirming compliance by all Investigators with University policy. Instances of deliberate breach of this Policy, including failure to file or knowingly filing incomplete, erroneous, or misleading disclosures, violation of the guidelines, or failure to comply with prescribed monitoring procedures will be evaluated in accordance with applicable policies and procedures of Indiana University.

If a conflict of interest involves government-sponsored Programs, the University may be obligated under federal, state, or local law to report any corrective action taken.

Procedure Guidelines

The Chancellors/Provost may approve separate procedures for one or more Schools.

Each set of procedures must adhere to the requirements set forth in this Policy, and must contain the following specific elements:

1. The disclosure requirements may be no less restrictive than those provided for in this Policy.
2. Enforcement mechanisms must be consistent with this Policy.
3. Confidentiality must be assured; disclosures should be available only to those charged with responsibility for review, subject to any restrictions on confidentiality imposed by Indiana State Law on Access to Public Records (IC 5-14-3).
4. Financial Interests and other activities reportable under this Policy must be disclosed at least annually, and at other times when conflicts arise or when circumstances change. Activities that must be reported or approved prior to their commencement shall be defined in campus procedures.
5. In the case of Investigators who hold administrative positions (e.g., Vice President, Chancellor, Provost, Vice Chancellor, Vice Provost, Dean, Department Chair, Director), disclosure of activities reportable under this Policy will be made to the academic unit in which the officer has his or her appointment and will be reviewed according to the procedures applicable to that unit. Disclosure and review of reportable activities by Investigators who do not also hold an academic appointment shall be handled by the appropriate campus on an ad hoc basis.
6. The person to whom disclosures are reported may initiate an inquiry when he or she believes a conflict of interest may exist.
7. Final authority for determining whether or not and on what conditions a specific activity covered by this Policy may be undertaken rests with the campus Chancellor/Provost.
8. Investigators shall be entitled to respond to recommendations at every stage of the review process.
9. Procedures adopted by the Chancellors/Provost shall provide Investigators with the opportunity for a second level of review of decisions recommending action to manage, reduce, or eliminate a conflict of interest.
10. Examples of conditions or restrictions that might be imposed to manage, reduce, or eliminate conflicts of interest include but are not limited to the following:
 - a. Public disclosure of significant Financial Interests.
 - b. Monitoring of Sponsored Programs by independent reviewers.
 - c. Modification of the Research plan or instructional project for the Sponsored Program.
 - d. Disqualification from participation in all or a portion of the Sponsored Program that would be affected by the significant Financial Interests.
 - e. Divestiture of significant Financial Interests.
 - f. Severance of relationships that create conflicts of interest.

Certain federal agencies (e.g., NSF) permit research or instructional activities to go forward without imposing such conditions or restrictions under the following or similar circumstances: when the reviewer(s) determines that imposing conditions or restrictions would be either ineffective or inequitable, and that the potential negative impacts that may arise from a significant Financial Interest are outweighed by interests of scientific progress, technology transfer, or the public health and welfare. Other agencies (e.g., PHS) do not allow such exceptions.

11. A copy of each set of campus procedures is to be submitted to the Vice President for Research

APPENDIX

AAUP STATEMENT ON GOVERNMENT-SPONSORED RESEARCH (Revised April, 1990)

I. Favoring of Outside Interests

When a university staff member (administrator, faculty member, professional staff member, or employee) undertaking or engaging in government-sponsored work has a significant financial interest in, or a consulting arrangement with, a private business concern, it is important to avoid actual or apparent conflicts of interest between government-sponsored university research obligations and outside interests and other obligations. Situations in or from which conflicts of interest may arise are the:

1. undertaking or orientation of the staff member's university research to serve the research or other needs of the private firm without disclosure of such undertaking or orientation to the university and to the sponsoring agency;

2. purchase of major equipment, instruments, materials, or other items for university research from the private firm in which the staff member has the interest without disclosure of such interest;
3. transmission to the private firm or other use for personal gain of government-sponsored work products, results, materials, records, or information that are not made generally available (this would not necessarily preclude appropriate licensing arrangements for inventions, or consulting on the basis of government-sponsored research results where there is significant additional work by the staff member independent of the government-sponsored research);
4. use for personal gain or other unauthorized use of privileged information acquired in connection with the staff member's government sponsored activities (the term "privileged information" includes, but is not limited to, medical, personnel, or security records on individuals; anticipated material requirements or price actions; possible new sites for government operations; and knowledge of forthcoming programs or of selection of contractors or subcontractors in advance of official announcements);
5. negotiation or influence upon the negotiation of contracts relating to the staff member's government-sponsored research between the university and private organizations with which the staff member has consulting or other significant relationships;
6. acceptance of gratuities or special favors from private organizations with which the university does, or may conduct, business in connection with a government-sponsored research project, or extension of gratuities or special favors to employees of the sponsoring government agency, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties.

II. Distribution of Effort

There are competing demands on the energies of faculty members (for example, research, teaching, committee work, outside consulting). The way in which a faculty member divides his or her effort among these various functions does not raise ethical questions unless the government agency supporting the research is misled in its understanding of the amount of intellectual effort the faculty member is actually devoting to the research in question. A system of precise time accounting is incompatible with the inherent character of the work of faculty members, since the various functions they perform are closely interrelated and do not conform to any meaningful division of a standard work week. On the other hand, if the research agreement contemplates that a faculty member will devote a certain fraction of effort to the government-sponsored research, or the faculty member agrees to assume responsibility in relation to such research, a demonstrable relationship between the indicated effort or responsibility and the actual extent of the faculty member's involvement is to be expected. Each university, therefore, should—through joint consultation of administration and faculty—develop procedures to ensure that proposals are responsibly made and complied with.

III. Consulting for Government Agencies or Their Contractors

When the staff member engaged in government-sponsored research also serves as a consultant to a federal agency, such conduct is subject to the provisions of the Conflict of Interest Statutes (18 U.S.C. 202-209 as amended) and the president's memorandum of May 2, 1963, Preventing Conflicts of Interest on the Part of Special Government Employees. When the staff member consults for one or more government contractors, or prospective contractors, in the same technical field as the staff member's research project, care must be taken to avoid giving advice that may be of questionable objectivity because of its possible bearing on the individual's other interests. In undertaking and performing consulting services, the staff member should make full disclosure of such interests to the university and to the contractor insofar as they may appear to relate to the work at the university or for the contractor. Conflict-of-interest problems could arise, for example, in the participation of a staff member of the university in an evaluation for the government agency or its contractor of some technical aspect of the work of another organization with which the staff member has a consulting or employment relationship or a significant financial interest, or in an evaluation of a competitor to such other organization.

Reason For Policy

This Statement describes Indiana state law on conflicts of interest and University procedures designed to protect federally-funded research from any bias that can reasonably be expected to arise from the financial interests of

research investigators. These procedures comply with rules and regulations on investigator conflicts of interest for awardee institutions promulgated by several federal agencies.

Definitions

An **External Entity** includes any person, trust, organization, enterprise, or other entity (including government agencies) that is not an entity under the control of or under common control with the University.

A **Family Member** of an individual includes his or her spouse and dependent children.

A **Financial Interest** is anything of significant monetary value including but not limited to salary or other payments for services (e.g. commissions, consulting fees, or honoraria), equity interests (e.g., stocks, stock options, or other ownership interests), allowance, forbearance, forgiveness of debt, interest in real or personal property, dividends, royalties derived from the licensing of technology (other than receipt of a royalty under Indiana University royalty-sharing policies), rent, capital gain, and intellectual property rights (e.g., patents, copyrights, and royalties from such rights).

Whether a Financial Interest is "significant" will depend upon the facts of the situation, but monetary value will be considered significant according to the following guidelines: (1) an equity interest is significant if it exceeds \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value or represents more than a 5% ownership interest in any single entity, when aggregated for the Investigator and his or her Family Members; (2) salary, royalties, or other payments are significant if they are expected to exceed \$10,000, when aggregated for the Investigator and his or her Family Members over the twelve months following the date of the disclosure.

The term does not include:

1. salary, royalties, or other remuneration from Indiana University;
2. income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities; or
3. income from service on advisory committees or review panels for public or nonprofit entities.

An **Investigator** is any person, including but not limited to any person holding an academic or professional staff appointment at Indiana University, who is engaged in the design, conduct, or reporting of Research or externally-supported educational activities through a Sponsored Program.

Research means a systematic investigation designed to develop or contribute to generalizable knowledge. The term encompasses basic and applied research and product development.

Sponsored Programs means Research, training, and instructional projects involving funds, materials, gifts, or other compensation from External Entities under agreements with the University.

State Law on Conflict of Interest refers to Indiana State Statute IC 35-44-1-3.

History

Approved: UFC 04/11/95

Related Information

[ACA-74 Financial Conflicts of Interest in Research](#)