UNLV | RESEARCH

CONFLICT OF INTEREST RULES AND PROCEDURES

Responsible Administrator:	Executive Vice President and Provost
	Vice President for research
Responsible Office(s):	Office of faculty, Policy, and Research
	Office of Research Integrity
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1. AUTHORITY

The Conflict of Interest/Compensated Outside Services Policy establishes the authority of the University of Nevada, Las Vegas ("UNLV" or "University") to manage all conflicts of interest and compensated outside services of individuals affiliated with the University.

The Nevada Revised Statutes ("NRS") 281A.400-281A.480 detail the code of ethics applicable to public officers and employees of the state of Nevada, including restrictions on conflicts of interest and compensated outside services. NRS 396.110 grants authority to the Nevada System of Higher Education ("NSHE") Board of Regents to prescribe rules for governing the system. Title 4, Chapter 3, Section 9 of the NSHE *Board of Regents Handbook* delineates Board policy for compensated outside professional services. NSHE *Board of Regents Handbook* Title 4, Chapter 12, Sections 1-8 details the Intellectual Property Policy. Title 4, Chapter 10, Section 1 (7) delineates conflicts of interest that are prohibited. Title 4, Chapter 3, Section 7 delineates the prohibition of nepotism.

Additionally, UNLV must comply with the Federal Financial Conflict of Interest regulations 42 CFR Part 50, Subpart F, and 45 CFR Part 94 and grant acceptance requirements, including the NSF Grant Policy Manual.

2. GENERAL POLICY

Prior to beginning any compensated outside service, all faculty and professional staff must complete the Outside Activity Request Form and receive approval for the activity. Requests must be made for each activity.

Additionally, all faculty and professional staff must provide an annual disclosure that describes whether or not they engaged in any outside activity or professional involvement. These disclosures shall be on an annual basis to their supervisor by January 30 of each year, and upon application for a

sponsored project. All disclosures must be made using the UNLV Conflict of Interest/Compensated Outside Services Annual Disclosure online form.

All other individuals affiliated with UNLV must disclose potential conflicts of interest prior to accepting a conflict related to sponsored projects or other outside conflicts that may impact their position with UNLV.

All University employees shall inform those who engage them in outside professional work that they are not acting in the name of the University and that the University is neither a party to the contract nor liable for any actions of such employee. Employees performing outside professional work or scholarly services are also subject to Title 4, Chapter 1, Section 25 of NSHE's policy on Personal Use of System Property or Resources.

This document describes the procedures for requesting approval for outside compensated activity, annual disclosure, review, and for the exercise of ongoing oversight of actual and/or potential conflicts. It also describes sanctions that may be applied when the policy is violated.

The University will institute additional processes and procedures required by federal awards if a potential conflict of interest is revealed on a sponsored award and such requirements are incorporated in the award terms and conditions.

3. APPLICABILITY

These rules and procedures, and the policy apply to all University employees. For sponsored projects, subcontractors and other external collaborators must provide adequate assurances to the institution that they are in compliance with the federal regulations referenced above and must provide reports of conflicts of interest in a timely manner to allow for reporting to funding agencies.

This policy applies to any research, education, administrative or service activity, regardless of whether or not support is provided to the University or University employee. (Support may be in the form of sponsorship, incentive, equipment or gift.)

4. DEFINITIONS OF TERMS

Conflict of Interest or COI: Any outside activity or interest that may, or may appear to, adversely affect, compromise, or be incompatible with the obligations of an employee at UNLV. Conflict of interest encompasses any situation in which an employee of the University uses, or is in a position to use, his or her influence and authority within the University to advance his or her own personal or financial interest, or the personal or financial interests of individuals in the employee's household; persons to whom the employee is related by blood, adoption or marriage within the third degree of consanguinity; or persons with whom the employee has substantial and continuing outside business relationships. The bias of such conflicts could conceivably inappropriately affect the goals of research, instructional or administrative programs. The education of students, the methods of analysis and interpretation of research data, the hiring of staff, procurement of materials, and other administrative tasks at the University must be free of undue influence of outside interests. For the purposes of

reporting COIs to federal funding agencies, the federal definition(s) supersedes the above definition and will be used to determine which COIs must be reported.

Compensated Outside Services: Includes outside compensated work or compensated scholarly services performed by a University employee, but does not include income derived solely from passive investments. Provision of compensated outside services is recognized as a legitimate activity unless specifically prohibited by an employee's contract of employment. Compensated outside service is not considered appropriate when it interferes with the regular work of the University employee; involves unauthorized use of UNLV facilities, personnel, services, or other resources; subjects other individuals or companies engaged in private practice to unfair competition; violates the general requirements of NRS 281A.400 -281A.480; or involves a conflict of interest specified by NSHE or University policy that has not been reduced or eliminated.

Excessive Compensated Outside Services: Compensated outside service that exceeds the limits set forth in NSHE's policy on Compensated Outside Professional Service (Title 4, Chapter 3, Section 9). B contract (9-month) faculty may engage in outside service during contractual time, but this activity must not occupy more than the equivalent of one day's time per work week (20% of contractual time). Employees on 12-month contracts must take annual leave or furlough if providing outside service during the standard work week.

Designated Official: The institutional official(s) who have been given authority to review and manage all disclosures of significant financial interests. This includes determining whether any significant financial interests relate to federal funding; determining whether a financial conflict of interest exists; and, if so, developing and implementing a management plan that specifies actions that have been, and shall be, taken to manage such financial conflict of interest. At UNLV the designated official is the Executive Vice President and Provost.

Employee: Any person who is employed full or part time by the University and includes but is not limited to faculty, staff, postdoctoral appointees, and students. Individuals or "investigators" (as defined by federal awards who are not paid but work as volunteers on funded projects) are also considered employees.

Financial Conflict of Interest (FCOI): A significant financial interest that could directly and significantly affect the design, conduct, or reporting of funded research or affect the performance of duties for or by any UNLV/NSHE employee.

Financial Interest: Anything of monetary value, including but not limited to, salary, or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights).

Investigator: The principal Investigator (PI), project director (PD), and/or any other person at the University who is responsible for the design, conduct, or reporting of a sponsored project which may include collaborators or consultants. It should be noted that the guidelines that apply to investigators also apply to individuals in the investigator's household; persons to whom the investigator is related by blood, adoption, or marriage within the third degree of consanguinity as defined by NSHE *Board of Regents Handbook* Title 4, Chapter 3, Section 7 (Nepotism); or persons with whom the investigator

has substantial and continuing outside business relationships. Hence, for the purposes of this policy's disclosure requirement, the term "investigator" refers to the above individuals related to or working with the investigator.

Significant Financial Interest:

(1) A financial interest consisting of one or more of the following interests of the Investigator (and those of the Investigator's spouse and dependent children) that reasonably appears to be related to the Investigator's University responsibilities:

(i) With regard to any publicly traded entity, a *significant financial interest* exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure and the value of any equity interest in the entity as of the date of disclosure, when aggregated, exceeds $5,000. For purposes of this definition, remuneration includes salary and any payment for services not otherwise identified as salary (e.g., consulting fees, honoraria, paid authorship); equity interest includes any stock, stock option, or other ownership interest, as determined through reference to public prices or other reasonable measures of fair market value;

(ii) With regard to any non-publicly traded entity, a *significant financial interest* exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure, when aggregated, exceeds $5,000, or when the Investigator (or the Investigator's spouse or dependent children) holds any equity interest (e.g., stock, stock option, or other ownership interest); or

(iii) Intellectual property rights and interests (e.g., patents, copyrights), upon receipt of income related to such rights and interests.

(2) Investigators also must disclose the occurrence of any reimbursed or sponsored travel (i.e., that is paid on behalf of the Investigator) related to their University responsibilities; however, this disclosure requirement does not apply to travel that is reimbursed or sponsored by a Federal, state, or local government agency, an Institution of higher education as defined at 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education. This disclosure will include, at a minimum, the purpose of the trip, the identity of the sponsor/organizer, the destination, and the duration. The University official(s) will determine if further information is needed, including a determination or disclosure of monetary value, in order to determine whether the travel constitutes an FCOI with the PHS-funded research.

(3) The term *significant financial interest* does not include the following types of financial interests: salary, royalties, or other remuneration paid by UNLV to the Investigator if the Investigator is currently employed or otherwise appointed by UNLV, including intellectual property rights assigned to UNLV and agreements to share in royalties related to such rights; income from investment vehicles, such as mutual funds and retirement accounts, as long as the Investigator does not directly control the investment decisions made in these vehicles. All significant financial interests must be evaluated by UNLV to determine whether or not they pose a financial conflict of interest.

Senior/key personnel: A project director (PD), principal Investigator (PI), and any other person identified as senior/key personnel by UNLV in the grant application, progress report, or any other report submitted to the funding agency.

Sponsored project: A research, training, service, or other type of project with identifiable objectives and/or deliverables for which external funding either is being requested or has been received.

Supervisor: The supervisor is the University official designated by the Executive Vice President and Provost to review SPOCS / COI approvals/ disclosures for academic and administrative faculty in a given unit.

For faculty in academic departments or schools, the Supervisor is the department chair or school director, and these Supervisors are expected to review SPOCS/COI approvals/ disclosures for their faculty members directly.

For academic and administrative faculty in a college but not a department or school, the Supervisor is the dean, and deans may delegate this authority to an associate dean in the college or school.

For academic or administrative faculty in an area under the Provost outside a college, the Supervisor is the relevant Vice Provost (for Academic Resources and Decision Support, this is the Vice Provost for Faculty, Policy and Research).

For academic or administrative faculty in support divisions, this is the relevant Vice President (or the General Counsel), and these Supervisors may delegate this authority one reporting level down, to an associate vice president or comparably ranked official.

For all vice presidents, deans and vice provosts, the Supervisor is the EVPP. For the EVPP, the Supervisor is the President. For the President, as per NSHE Code 4.3.8, the supervisor is the Chancellor.

In all cases, the relevant dean or vice president is responsible, under NSHE Code 4.3.9, to maintain requests, approvals and disclosures as confidential documents and part of the personnel dossier.

University Responsibilities: An Investigator's professional responsibilities on behalf of UNLV, and as defined by the University, including but not limited to, activities such as research, research consultation, teaching, professional practice, institutional committee memberships, and service on panels such as University Institutional Review Boards and University Data and Safety Monitoring Boards.

5. REQUEST PROCESS

All compensated outside services must be reviewed prior to the activity being undertaken. Activities that need approval include:

- Consulting
- Professional and/or commercial activities
- Outside academic affiliation. All formal teaching assignments undertaken for another institution by a UNLV faculty or staff member, whether compensated or uncompensated, as

well as any formal and on-going academic affiliation with another institution must be requested, reviewed, and approved.

An Outside Activity Request Form must be completed for each activity and signatures of department chair/supervisor and dean/director must be obtained to indicate approval. Approved requests should be kept on file by department chairs/supervisors. Employees should also retain copies of approvals.

Situations that may create a conflict of interest include:

- External financial interests
- Consulting and other compensated professional/commercial activities
- Outside academic affiliation
- Use of students/support staff on outside activities
- Use of University resources
- Clinical trials
- Contractual relationships between the Institution and other entities with which University employees have an outside relationship.

It is the responsibility of each University employee to request approval for compensated outside services. It is the responsibility of the University and designated official to review disclosures and determine if the disclosed interests could directly and significantly affect the employee's performance of University responsibilities. If a conflict of interest or commitment and/or excessive compensated outside services appears to exist the supervisor and/or dean shall attempt to negotiate and document a management plan, which is a mutually acceptable course of action to manage, mitigate, or alleviate the conflict of interest due to compensated outside services.

6. DISCLOSURE PROCESS

The University is less concerned about dollar amounts than about time commitments and potential conflicts of financial interest. However, federally funded investigators must disclose the amount of compensation so that the designated official may determine whether a financial conflict of interest exists. A disclosure in and of itself is not suggestive of any impropriety; rather, it is customary and usual, and it benefits both the individual and the University as described in NSHE's Compensated Outside Professional Services Policy (Title 4, Chapter 3, Section 9).

On an annual basis, and prior to submission for funding of any new project that may pose conflicts of interest or conflict due to compensated outside services, all University employees must provide information on the nature and extent of their compensated outside services and potential conflicts of interest/financial interests for the preceding 12 months using the UNLV Conflict of Interest/Compensated Outside Services Annual Disclosure Form. Department chairs/supervisors are responsible for ensuring that all disclosure forms are received by the due date, which is set annually by the Executive Vice President and Provost. Approved requests for outside compensated service must be

attached to the annual disclosure form. All University employees shall also disclose benefits known to an employee that may accrue to individuals in the employee's household, persons to whom the employee is related by blood, adoption or marriage within the third degree of consanguinity, or persons with whom the employee has substantial and continuing outside business relationships.

Investigators do not need to disclose the following:

- Salary, royalties, or other remuneration paid by UNLV to the Investigator if the Investigator is currently employed or otherwise appointed by UNLV, including intellectual property rights assigned to the University and agreements to share in royalties related to such rights;
- Income from investment vehicles, such as mutual funds and retirement accounts, as long as the Investigator does not directly control the investment decisions made in these vehicles.

7. REVIEW PROCESS

Determination of whether a conflict of interest or excessive compensated outside services (i.e. more than one day's equivalent time per work week) exists in a particular instance will often be a matter of judgment. The activities of University employees must be governed by thoughtful and shared consideration of individual circumstances in applying the appropriate rules. Application of administrative discretion is an integral part of the University's conflict of interest/compensated outside services review and remediation systems.

Chairs/supervisors are responsible for the initial review of all requests for outside compensated activity. Chairs/supervisors may approve the activity, approve the activity once certain modifications have been made, or not approve the activity. The chair/supervisor decision is then forwarded to the dean/director for approval. Completed request forms should be retained by the chair/supervisor and by the employee.

Approval of requests must be in accordance with the UNLV policy on Conflict of Interest/Compensated Outside Service. If the chair/supervisor or dean/director believes that a conflict of interest, conflict of time commitment, and/or excessive compensated outside services appears to exist, the supervisor should not approve the request until the supervisor and the faculty member have negotiated and documented a management plan.

For federally funded investigators, the management plan at a minimum will describe the role and principal duties of the conflicted Investigator in the research project; conditions of the management plan; how the management plan is designed to safeguard objectivity in the research project; confirmation of the Investigator's agreement to the management plan through signature; how the management plan will be monitored to ensure Investigator compliance; and other information, as needed. This management plan must be forwarded to the designated official for review and approval, disapproval, or further development of management strategies.

If a mutually acceptable management plan cannot be negotiated at the unit level, the dean/supervisor will forward the request to the Conflict of Interest Committee, a standing committee appointed by the Executive Vice President and Provost. It consists of three tenured faculty members, one of whom is appointed by the Faculty Senate, and single representatives from the offices of Sponsored Programs,

Provost, Research Integrity, and General Counsel. Because of the technical nature of this work, panel members will undergo training and will serve a term of two years. The Conflict of Interest Committee will review the conflict of interest and will make a management plan recommendation to the Executive Vice President and Provost who will render a final decision. Upon request of an employee, the Conflict of Interest Committee may also review any requests for outside compensated activity that were not approved by a chair/supervisor or dean/director. The Conflict of Interest Committee will review the request and will make a recommendation to the Executive Vice President and Provost who will render a final decision. Decisions of the Executive Vice President and Provost may be grieved in accordance with the grievance procedures described in the UNLV bylaws. This grievance process is not applicable to any case in which an investigator is funded and the funding agency has given specific guidance about unallowable conflicts of interest that the investigator is requesting.

In cases where a real or potential conflict of interest exists, one of the following actions will be taken:

1. Accept the sponsored project and allow research to proceed (sponsored and unfunded);

2. Not accept the sponsored project and not allow research to proceed (sponsored and unfunded);

3. Require the University employee to cease participation in the project involving the conflict of interest while remaining a UNLV/NSHE employee;

4. Require the University employee to cease participation in University activities related to the conflict of interest;

5. Accept the sponsored project and allow the research to proceed (sponsored and unfunded) subject to certain conditions, e.g.:

    a. monitoring of research by independent reviewers;

    b. public disclosure of significant financial interest;

    c. modification of the research plan;

    d. disqualification from participation in all or part of the sponsored project;

    e. divestiture of significant financial interest;

    f. severance of relationships that create actual or potential conflicts.

In cases where excessive compensated outside service exists, one of the following actions will be taken:

1. Require that the University employee reduce the activity to that which is allowable under Title 4, Chapter 3, Section 9;

2. Require that the employee cease performance of existing outside obligations while the employee remains a UNLV/NSHE employee; and/or

3. Disciplinary sanctions as set forth in Title 2, Chapter 6 of the *NSHE* C*ode*.

If the conflict of interest or compensated outside services involves a vice president or the Executive Vice President and Provost, the University President will review the disclosure and render a final decision. If the conflict of interest or compensated outside services involves the University President, the Chancellor will review the disclosure and render a final decision (NSHE *Board of Regents Handbook* Title 4, Chapter 3, Section 8).

Review of annual disclosures pursuant to the Conflicts of Interest/Compensated Outside Service policy must be made to the employee's supervisor, dean/director/vice president, and to the Executive Vice President and Provost using the UNLV Conflict of Interest/Compensated Outside Services Disclosure Form. The Provost reviews all annual disclosures. Positive disclosures (i.e., Conflict of Interest/Compensated Outside Services Disclosure Forms on which an employee indicates that compensated outside activities have been performed) are also reviewed by the Office of Research Integrity and the Office of Sponsored Programs. The designated official shall then determine whether a conflict of interest and/or excessive compensated outside services is present. This determination and a response to the employee must occur within 30 days of receipt of the disclosure by the designated official. Lack of response to employee after 30 days shall constitute acceptance by the designated official.

Annual disclosures emanating from individuals who have a significant financial interest (SFI) and who are involved in federally funded projects will be reviewed by the Conflict of Interest Committee. The committee reviews the SFI to determine if a financial conflict of interest (FCOI) exists and reports this decision to the Executive Vice President and Provost. This determination and a response to the employee by the Executive Vice President and Provost must occur within 60 days of receipt of the disclosure by the Executive Vice President and Provost. Implementation of a management plan, if needed, must also occur within 60 days of the disclosure.

All disclosures and all documentation of resolutions must be maintained for a minimum of three years following the completion of the award for sponsored projects or the termination of the outside activity for conflicts and compensated service not related to a sponsored project.

8. ADDITIONAL REQUIREMENTS FOR PHS FUNDED INVESTIGATORS AND PROJECTS (EXCLUDING SBIR/STTR PHASE I APPLICATIONS/AWARDS)

Training

All individuals serving as Investigators on U.S Department of Health and Human Services Public Health Service (PHS) funded projects must complete training on conflicts of interest prior to engaging in research related to any PHS-funded grant and at least every four years, and immediately when any of the following circumstances apply:

(1) The University revises its financial conflict of interest policies or procedures in any manner that affects the requirements of Investigators;

(2) An Investigator is new to the University; or

(3) The University finds that an Investigator is not in compliance with UNLV's financial conflict of interest policy or management plan.

Retrospective Reviews

In addition to the mechanism set forth in section 9 of this procedure (below), the designated UNLV official will conduct retrospective reviews of PHS-funded projects as needed. Retrospective reviews will occur when:

- UNLV identifies a significant financial interest that was not disclosed in a timely manner by an Investigator;
- A significant financial interest was not previously reviewed or managed by UNLV during an ongoing PHS-funded research project (e.g., was not reviewed in a timely fashion or reported by a sub-recipient).

The designated official shall, within 60 days: review the significant financial interest; determine whether it is related to PHS-funded research; determine whether a financial conflict of interest ("FCOI") exists; and, if so:

(i) Will implement, on at least an interim basis, a management plan that shall specify the actions that have been, and will be, taken to manage the FCOI going forward;

(ii) In the event of failure by the Investigator to comply with a FCOI management plan, UNLV shall, within 120 days of UNLV's determination of noncompliance, complete a retrospective review of the Investigator's activities and the PHS-funded research project to determine whether any PHS-funded research, or portion thereof, conducted during the time period of the noncompliance, was biased in the design, conduct, or reporting of such research.

The University is required to document the retrospective review involving PHS-sponsored research; such documentation shall include, but not necessarily be limited to, all of the following key elements:

- Project number;
- Project title;
- PD/PI or contact PD/PI if a multiple PD/PI model is used;
- Name of the Investigator with the FCOI;
- Name of the entity with which the Investigator has a financial conflict of interest;
- Reason(s) for the retrospective review;
- Detailed methodology used for the retrospective review (e.g., methodology of the review process, composition of the review panel, documents reviewed);

- Findings of the review; and
- Conclusions of the review.

Based on the results of the retrospective review, if appropriate, UNLV will update the previously submitted FCOI report, specifying the actions that will be taken to manage the financial conflict of interest going forward. If bias relating to the conflict of interest is found, the University is required to notify the PHS Awarding Component promptly and submit a mitigation report. The mitigation report must include, at a minimum, the key elements documented in the retrospective review above and a description of the impact of the bias on the research project and the University's plan of action or actions taken to eliminate or mitigate the effect of the bias (e.g., impact on the research project; extent of harm done, including any qualitative and quantitative data to support any actual or future harm; analysis of whether the research project is salvageable). Depending on the nature of the FCOI, the University may determine that additional interim measures are necessary with regard to the Investigator's participation in the PHS-funded research project between the date that the financial conflict of interest or the Investigator's noncompliance is determined and the completion of the Institution's retrospective review.

If NIH determines that one of its funded clinical research projects whose purpose is to evaluate the safety or effectiveness of a drug, medical device or treatment has been designed, conducted or reported by an Investigator with an FCOI that was not managed or reported by the University, the University will require the investigator to disclose the FCOI in each public presentation of the results of the research and to request an addendum to previously published presentations.

9. DISCLOSURE TO EXTERNAL ENTITIES

UNLV will comply with all requirements for external disclosures of conflicts of interest and compensated outside services. This includes annual summary reports to the NSHE Board of Regents and specific reports to PHS and other funding agencies as stipulated in acceptance of awards documentation. In accordance with federal regulations, information about significant financial interests that were determined to be financial conflicts of interest for senior/key personnel on PHS sponsored projects will be made available on UNLV's publicly accessible website and must include the following: the Investigator's name; the Investigator's title and role with respect to the research project; the name of the entity in which the significant financial interest is held; the nature of the significant financial interest, and the approximate dollar value of the significant financial interest.

10. NONCOMPLIANCE

Possible violations of the University's Conflict of Interest/Compensated Outside Services Policy, Rules and Procedures, including alleged deliberate and/or dishonest undisclosed conflicts, will be investigated by the appropriate Vice President or the Executive Vice President and Provost, who will, in turn, recommend to the President appropriate action, if any, to be taken. The procedures set forth in Chapter 6 of the NSHE Code will govern the imposition of any disciplinary sanctions by the University for violations of policy, rules, and procedures. In addition, UNLV will comply with all review and reporting requirements for noncompliance of investigators on funded projects.

11. RECORDS

Electronic copies of disclosure forms and documentation of further actions related to such disclosures will be maintained in the Office of the Executive Vice President and Provost for three years following termination of the University employee; copies retained in personnel files will be maintained as required by NSHE code. Electronic records will be maintained by the Office of the Executive Vice President and Provost in a format that allows for reporting of aggregate data as required by NSHE Title 4 Chapter 3 Section 9.14. The Office of Research Integrity will be provided electronic copies of all positive disclosures. The Office of Sponsored Programs will be provided electronic copies of all disclosures related to sponsored projects. The Office of Sponsored Programs will provide all required reports to appropriate funding agencies.

The University will consider all disclosures and related documentation personnel documents, and will limit access to, and disclosure of, such records as provided for in the NSHE Regents Handbook and applicable UNLV personnel and privacy policies. However, the University will meet conflict of interest requirements for information release specified in the award documentation on sponsored programs.

12. CONTACTS

Associate Vice Provost, Faculty, Policy, and Research, FDH 709, 702-895-4629

Executive Director, Office of Research Integrity, FDH 321, 702-895-5948