CONFLICT OF INTEREST
and
COMMITMENT

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What we will review...

Here's what is covered in this presentation:

- Why does UNLV care about conflicts of interest?
- Policy
- What is a conflict of interest?
- Situations and examples
- Recognizing when you have a conflict of interest
- When and how to disclose a real or potential conflict
- Managing conflicts of interest
What is a COI?

• A potential Conflict of Interest (COI) may exist if an individual’s outside interests (especially financial) may affect, or perceive to affect, his/her research, teaching, or administrative activities at the University.

• All employees are expected to act with integrity and good judgment with those individuals and entities doing business or seeking to do business with the University.

• This includes, but is not limited to:
  – Disqualification from participating in decision-making when there is a conflict of interest.
  – Avoidance of the appearance of favoritism in all dealings on behalf of the University.
  – Recognition that acceptance of personal gifts, even when lawful, may give rise to legitimate concerns.
What is a Conflict of Interest?

Generally, a conflict of interest involves risk of benefit and/or bias.

**Benefit**

A conflict of interest arises when an employee may benefit personally (or appear to do so) from dealings with an entity or person conducting business with the College, including indirect benefits such as to family members or businesses with which the person is closely associated.

**Bias**

Financial or other considerations may compromise (or have the appearance of compromising) the employee’s objectivity or independent professional judgment in the discharge of University duties and responsibilities.

Taken from “COI 101”, Grinnell College, 2014
Conflict of Interest

• A conflict of interest occurs when you have a private interest that may benefit from your actions, or when a private interest could interfere with official duties
• An interest need not be financial to create a conflict of interest
• Most conflicts result from the exercise of discretionary authority
Institutional Conflict of Interest

May arise when a financial interest of the institution compromises or biases or appears to compromise or bias:

1) The design, conduct, or reporting of the research being funded;
2) The design, conduct or reporting of other research being or to be conducted by the campus or by the University.
3) A conflict may also arise when the resources of the campus or University are utilized in a way that is incongruent with the mission, obligations, or values of the institution and that is for financial gain.
Institutional Conflict of Interest

• The University and its employees are bound by Nevada State Law regarding *Ethics in Government* (codified at *NRS 281A*).

• The University **must avoid and/or manage** Conflict of Interests where its beneficial relationship with corporate entities may place it in conflict with its responsibilities as a public institution.

• Also, the University must abide by NSHE Code.
Policy

• NSHE Codes are relevant to minimizing/avoiding institutional conflict of interests
  – General Policy Statements (NSHE Code T4 Ch1) addresses the ethical code of conduct and prohibitions for Regents (Sections 2 and 3); access to NSHE and Institutional records (Section 4); use of external lobbyists (Section 24); and personal use of NSHE property and resources (Section 25).
  
    – General Business Management (NSHE Code T4 Ch10) addresses the NSHE purchasing policy (Section 1); statement of investment objectives and policies for the endowment and operating funds (Sections 5 and 6); administration of gifts; contracts; and sponsored programs (Section 9); and institution foundations’ and affiliation groups policies (Section 10).

  – Intellectual Property, Research and Entrepreneurial Activity (NSHE Code T4 Ch12) addresses NSHE’s position related to use, rights, and ownership of inventions, intellectual property, and restricted access research produced by NSHE faculty, staff, and students.
## Conflict of Interest

<table>
<thead>
<tr>
<th>All University Employees</th>
<th>Applicable Regulations or Policies</th>
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<tr>
<td>University employees may not participate in decisions if they have a personal financial interest.</td>
<td>NRS Code of Ethical Standards, 281A.400; NSHE Board of Regents Handbook (NSHE Code), T4, Ch10, Section 1, item 7</td>
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<tr>
<td>All university employees must disclose potential, perceived, and actual conflicts of interest when hired, immediately upon acquisition of a new conflict of interest, and annually</td>
<td>UNLV policy specifies University employees may not use University time, property, equipment or facilities for personal benefit or financial interests except under limited conditions.</td>
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<tr>
<td>Outside employment cannot interfere with the performance of University duties and no University time can be devoted to private purposes.</td>
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http://www.unlv.edu/research/technology
Conflict of Interest Policy

• **General Policy**
  – All faculty and professional staff shall disclose whether or not they plan to engage in any outside activity or professional involvement that may constitute a conflict of interest, and/or for which they will receive compensation.
  – Such disclosure shall be on an *annual basis* to their supervisor by *September 15* of each year, upon application for a sponsored project, or prior to initiation of any such outside services.
  – All disclosures must be made using the UNLV Conflict of Interest/Compensated Outside Services Disclosure form.
  – Potential conflicts must be properly reviewed and, if necessary, managed, supervised, and/or monitored without detriment to the reputation, integrity or position of the institution and individual.
Conflict of Interest Policy (cont’)

• General Policy
  – Additionally, 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 potential conflicts of interest and/or compensated outside services must be approved in advance, before the activity is undertaken.
  
  – 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.
Employee Disclosure of Financial Interests

• All UNLV employees must disclose remuneration or compensation that constitutes a Significant Financial Interest as listed below:
  – 1. With regard to any publicly traded entity, a Significant Financial Interest exists if the value of any remuneration received from the entity in the 12 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.
  – 2. 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 12 months preceding the disclosure, when aggregated, exceeds $5,000; or when Employee or the spouse or dependent children of Employee holds any equity interest.
  – 3. Intellectual property rights and interests (e.g., patents, copyrights), upon receipt of income related to such rights and interests
Employee Disclosure of Business Interests

• When a University employee has a relationship with a private business or other non-University entity either personally or through a commitment in a private capacity the potential exists for perceived or actual conflict of interests.

• When a University employee purchases goods or services for use by a University entity, she/he is advised to avoid situations that may influence or have the appearance of influencing her/his professional judgment. When the situation cannot be avoided, the relationship between the non-University entity and Employee or others through Employee’s commitment in a private capacity must be disclosed for evaluation as a conflict of interests.
Employee Conflicts of Commitment

- Arise from situations that place competing demands on researcher’s time and loyalties, such as working on funded projects, teaching and advising students, serving as a peer reviewer, working as a paid consultant.

- Relationships with Students
  - The primary obligation of the faculty member is to help students develop into independent researchers.
  - Researchers should not serve as reviewers on grants and publications submitted by their students.

Steneck, 2007
Conflict of Interest in Research

• In the sponsored research setting, a potential conflict exists when there is a possibility that an individual’s outside financial interests could directly and significantly affect the design, conduct, or reporting of the research.

• Prior to engaging in any research involving human subjects, all research team members (including external collaborators) must notify the Principal Investigator of Significant Financial Interests, and financial or business relationships or interests that may affect a specific research project, regardless of funding. When preparing an application for exempt determination or for IRB review, the Principal Investigator must provide the names of individuals with potential, perceived, or actual conflict of interests.

• The University must comply with additional requirements from federal agencies and sponsors for disclosure, review, management, or reporting of Investigator COIs for sponsored research.
Is it Real?

Conflicts of interest can be real – or they can appear real.

- If a situation looks like a conflict of interest or feels like a conflict of interest, it’s likely there is some level of conflict.

- Use the “reasonable person test”:
  If a reasonable, disinterested person would conclude that an individual might emphasize personal interests over other interests for which he/she has responsibility, there is, at the very least, the appearance of a conflict of interest.
Is it bad?

• Having a conflict of interest is **not** necessarily a problem or a “bad thing”

• Having a conflict of interest and doing nothing about it **is** a problem!
  
  – UNLV must demonstrate and document good governance in order to protect the **integrity** and **credibility** of the University
  
  – Needed to maintain the **trust** and **confidence** of our community, and funding agencies
  
  – May violate terms of grants and contracts and federal regulations
  
  – Can jeopardize future funding
  
  – University resources may be improperly used
  
  – Human subjects may be compromised
  
  – Not the **REBEL** way!
University’s approach to managing conflicts of interest

1. Disclosure
   - Employees disclose real or potential conflicts as they arise or at least annually.

2. Review
   - University leadership and/or the COI Committee reviews disclosures to determine materiality and, where warranted, places appropriate restrictions on employee’s scope of duties.

3. Management
   - Management apprises the employee of the restrictions, if any, deemed necessary to mitigate and manage the COI. Employee agrees to observe the restrictions.
COI Committee

- As an Institution receiving federal funds, UNLV is required to designate one or more persons to review financial disclosures; to determine whether a conflict of interests exists; and to develop plans to manage, reduce, or eliminate identified conflicts.

- The COI Official is typically the Director of the Research Integrity Office. The COI Official attends COI Committee meetings to provide advice and direction; reviews disclosures for completeness and to identify potential, perceived, or actual conflict of interests; and develops management plans.

- The COI Committee conducts business through collaborative review and discussion of potential, perceived, or actual conflict of interests; and the plans for managing same.
COI Committee Composition

- The COI Committee is comprised of a Committee Chair and members consisting of faculty or staff from academic units: typically units involved in research activities including grants, cooperative agreements, contracts, or subawards, including those funded by the Public Health Service.

- The COI Committee may include ex officio members as appropriate for the conflict under consideration, for example the Director, Office of Sponsored Projects; representative from the School of Medicine; or Assistant Vice President, Business and Finance.

- As warranted by the nature of the conflict, the COI Committee may request the presence of the Director of Purchasing; the NSHE Office of General Counsel; or other faculty members, deans, or chairs.
Management of Faculty COI

• When a COI is identified, a COI Management Plan is used to place the interests in context, identify the conflicts, and develop a plan to reduce or manage conflicted interests. The COI Official works with the Employee in the development of the plan.

• The University monitors Investigator compliance with the Management Plan on an ongoing basis until the completion of the relevant project.
COI/COC Examples...

- Accepting personal gratuities
  - An IT services employee receives a “free” large-screen TV from a vendor seeking a contract with the University. “Just try it and see if you like it. No obligations.”

- Conflicting outside employment or other allegiances
  - An individual within UNLV purchasing steers procurement decisions to favor a company where a family member works.

- Using or disclosing confidential information
  - An Office of Economic Development employee uses UNLV’s confidential donor list to solicit gifts for another community non-profit organization.

- Maintaining roles that conflict
  - A researcher within UNLV uses University resources or students to fulfill consulting obligations to an outside company.
University Doctors Got Paid in Drug's Sales Campaign

Fourteen university-affiliated physicians collected more than $400,000 from the makers of the anti-cholesterol drug Vytorin as part of a campaign to encourage the use of the medication. The 2008 campaign went on after an internal company study showed that the drug, with several billion dollars in sales, had little or no overall value for most patients.

The physicians, many of them prominent in the field of cardiovascular disease, accepted …. 
January 20, 2010

**Baylor College of Medicine Faces NIH Sanctions Over Financial Conflicts**

The National Institutes of Health has ordered tougher financial disclosures on all grant applications from Baylor College of Medicine, saying that an investigation has raised "serious concerns" about the college's compliance with regulations governing corporate conflicts of interest.

The NIH also asked the medical college, in Houston, to review all of its grant awards from the agency dating back to 2004 to reassess all financial relations between its scientists and outside drug
A UNLV researcher has partial ownership of a patent on a new gene therapy technique. Her work is being funded by a biotech company which owns the other part of the patent. She also has stock in the company. She plans to use her patented technique in clinical trials for gene therapy to treat breast cancer. If her cure works she will make millions of dollars and so will the company. Even if the cure does not work, she still may make a lot of money if the value of her stock rises.
Practice Study #1

- Does the researcher have a…
  - Conflict of Interest
  - Conflict of Commitment
- Should this financial arrangement be permitted?
- What should the researcher do?
Practice Study #2

• Situation

Professor Smith holds equity interests in NewCo, Inc. – a start-up company licensing UNLV intellectual property. NewCo will apply for a SBIR award and plans to subcontract a portion of the work to Professor Smith’s lab at UNLV. SBIR is an award to a small business and the University would not be eligible to apply for this grant. NewCo’s SBIR proposal indicates that Professor Smith’s post-doctoral fellow (Post Doc Thompson) will serve as the company’s PI for the SBIR award.
Practice Study #2

What should Professor Smith do to protect Post Doc Thompson in this case?

a) Professor Smith should disclose all present and proposed activities or relationships that may affect the objectivity of research or scholarship, give the appearance of being motivated by private financial gain, or involve unacceptable commitments for a scholar/researcher;

b) Professor Smith should disclose when a student is working on a project and the research is driven primarily by the commercial considerations and the sponsor is involved in the direction of the research;

c) Professor Smith should develop a Management Plan with the COI Official and be transparent to the COI Official, Supervisor and the COI Committee regarding the NewCo research and trainee involvement;

d) All of the above.
You are a sixth-year graduate student at a large university in the final months of your dissertation research on novel photonic materials. You are worried about your next appointment, and have applied for several postdoctoral positions in this field plus a few tenure-track assistant professorships at universities where you would like to work. To your surprise and pleasure, you are invited for an interview for a tenure-track appointment at your undergraduate alma mater, a prestigious research institution in a city where you already have connections and would love to live.

In the question-and-answer period following your seminar on your research, the department chair asks for detailed information about the novel material-preparation technique developed in your graduate research, and used extensively in your experiments. Your group is working on a patent application and its members have agreed not to provide details until a paper currently being prepared is submitted for publication. Your thesis advisor will be giving the first major presentation on the technique at a major international conference in a couple months.

You answer that you and your colleagues are in the process of writing it up for publication and a patent application, and you would be glad to send them an early preprint when it is available. The question-and-answer period continues and concludes uneventfully and pleasantly.

After the seminar, in your private interview with the Chair, he pushes harder for this information, remarking that the Department seeks team players, willing to share information with department colleagues, and referring to your undergraduate roots and the need to prove you are one of them to be a viable candidate for the position.
Practice Study #3

• What should you do?
  a) Give the Chair the information he requests and not tell your group
  b) Give the Chair the information and tell your group when you get back
  c) Refuse to provide information and storming out of the Chair's office
  d) Talk the Chair out of his urgency, by reminding him of your prior
     agreement to maintain confidentiality
If you suspect a conflict, report it.

Regardless of whether it’s real or perceived, a conflict is a conflict.

- As soon as you suspect a conflict exists:
  - **Disclose** it. Transparency is key.
  - **Talk** with your Supervisor, Chair or Dean before taking action if there’s any risk of a conflict.
  - **Mitigate** the conflict by taking steps to ensure a fair and level playing field among multiple qualified vendors, e.g. competitive bids, RFP process, etc.
  - **Abstain** from decisions or other involvement where there is a risk of bias – real or perceived.
Think you have a conflict?
Consider these questions…

- Are my actions in alignment with my personal values and those of the institution I represent?
- Do my actions feel right? Do they reflect a basic understanding of generally accepted standards of right and wrong?
- Am I being honest about all facets of the situation? Do the right people know what’s going on?

If you suspect a conflict, report it.
Critical Takeaways

1. All UNLV faculty and professional staff must complete a COI/COC statement each year
2. Not all COI/COCs are bad
3. Be alert, and look out for potential risks
4. A perceived conflict is as potentially harmful as a real conflict
5. Err on the side of caution; it’s better to over-disclose potential conflicts than under-disclose
UNLV COI Committee

- Brenda Buck, Department of Geoscience
- Lori Ciccone, Office of Sponsored Programs
- Mary Croughan, Office of Research and Economic Development
- Bill Culbreth, Department of Mechanical Engineering
- Tondra De, Office of Faculty Affairs
- Mark Guadagnoli, School of Medicine
- Zach Miles, Office of Research and Economic Development
- Ngai Pindell, Office of Faculty Affairs
- Joel Snyder, Department of Psychology
Disclosures

Case study 1: 

Case Study 2: https://ori.hhs.gov/education/products/rcradmin/topics/coi/case_0.shtml


Resources

UNLV Policy 
http://www.unlv.edu/assets/research/policies/COI-CompensatedOutsideServicesPolicy.pdf

UNLV Conflict of Interest Rules and Procedures: 

CITI: four modules (Introduction, Financial Conflicts of Interest, Institutional Responsibilities as They Affect Investigators, Conflicts of Commitment, Conscience, and Institutional Conflicts of Interest)