Proposed Revisions to the Policy on Conflicts of Interest and Commitment (USC OT-259)

WHEREAS, reporting and management of conflicts of interest and commitment is growing in complexity and oversight from the state and federal levels;

WHEREAS, the current policy on conflicts of interest and commitment has served the University of Illinois well over two decades;

WHEREAS, it is essential that the University has a sound and up-to-date policy on conflicts of interest and commitment; and

WHEREAS, the policy was extensively revised and updated in 2007 but the changes were not formally adopted at that time;

THEREFORE BE IT RESOLVED that the Campus Senate at the University of Illinois at Springfield hereby approve the Proposed Revisions to the Policy on Conflicts of Interest and Commitment.
Notes for the Senate Review
University of Illinois Policy on Conflicts of Commitment and Interest
August 14, 2010

These notes compare the August 2010 revised version of the Policy with the revised version that was submitted and approved by Senates Conference in 2007.

Comments on the Table of Contents, pages 1-2

Section III.B adds definitions of Immediate Family (previously “Family”), Responsible Official, Management Plan, Management Mechanisms, and Significant Financial Interest (was “Significance”).

Section III.C has been re-titled “Basic Considerations” and adds a section III.C.3 Conflicts of Commitment and Interest in Teaching. These conflicts were previously addressed in the Appendix to the Policy.

Section III.D now has three sections, III.D.1 Overall Responsibility, III.D.2 Duty of Cooperation and III.D.3 Reporting, Review and Approval. Sanctions were originally addressed in this section; they are now addressed in IV.E only.

Section III.E has been re-titled “Examples of Allowable Income-Generating Activities, Generally Not Requiring Prior Approval.”

Section III.F has been re-titled “Examples of Potential or Actual Conflicts of Commitment of Interest Requiring Prior Approval.”

Section IV PROCEDURES has been extensively edited and re-organized to clarify the processes for review, approval and appeals.

Section IV.A now has three sections, IV.A.1 Annual Disclosure, IV.A.2 Situation Specific Disclosures, and IV.A.3 Reports from Third Parties.

Section IV.B Review and Approval was added to describe the review and approval process.

Section IV.C has been re-titled “Managing Potential Conflicts.”

Section IV.D Appeals replaces and clarifies the previous Section IV.F Appeals.

Section IV.F Periodic Review replaces the previous Section IV.G Periodic Review of this policy.

Section IV.G Exceptions has been added.
Section V. Appendix: Documents, Laws and Regulations Providing a Foundation for this Policy no longer contains “Policy Clarification: Conflicts of commitment and interest in teaching.” This topic is addressed in Section III.C.3.

Information on federal procurement standards and links to the relevant CFR have been included.

Annotations to the Revised Policy

(1) “Such” was replaced with “external” for clarity.

(2) The word “remedies” was changed to “mechanisms.”

Section I. PREAMBLE page 3

(3) Throughout the document, the Committee has standardized references to “non-university income producing activities.”

(4) This paragraph was added to the Revised Policy.

Section II. OVERVIEW pages 3-4

(5) Small changes in wording in this bullet.

(6) Small changes in wording.

(7) The concept of involvement of students was added to this bullet.

(8) This bullet was added.

(9) Small changes in wording.

(10) The bullet “Reports of potential conflicts and remedies are reviewed on each campus by the vice chancellor for research, who is advised by a Conflict Review Committee of three or more academic staff members” was removed. The Conflict Review Committee is now discussed in Section III.D.3.e.

(11) These bullets were added.

(12) This bullet formerly referred to sanctions.

(12a) Replaces a bullet that previously read, “If remedies mutually satisfactory to the academic staff member and the university are not reached, the university may impose a sanction, subject to appeal.”

(13) This formerly read “confidentiality of reports, remedies and sanctions.”
Section III. POLICY pages 4-15

III.A. Persons Covered

(14) The list of academic staff was reordered, putting academic professionals first to emphasize that the Policy applies to academic professionals as well as faculty. Civil service staff (who have been and continue to be covered under a separate policy) are now explicitly excluded. There is recognition that civil service staff, students and medical residents may be required to make situation-specific disclosures.

(15) Because some people have been explicitly excluded from this policy, this statement was added to cover situations where transactional (situation-specific) reporting may be required (e.g., research, procurement, use of university facilities, economic development activities).

III.B. Definitions

(16) The definition of “conflict of interest” now includes two parts. The second part refers to conflict of interest issues that may arise in the procurement process.

(17) “Immediate” was added to reflect more clearly this limited definition of family.

(18) This definition of “responsible official” is new and is intended to simplify references to the chief research officer or president’s designee.

(19) Conflict management plans are generally developed when conflicts of interest exist as defined in 2(a). Thus here we first address the question of management of conflicts associated with the procurement process, as defined in 2(b) so that this can be set aside and we can focus on 2(a).

(20) This is a new definition.

(21) These requirements for units to define thresholds for situation-specific disclosures are new, and the definition of “significant interest” has been revised to be more consistent with applicable federal regulations.

Previously: “The definition of ‘significant interest’ varies according to whether human research subjects are involved in the activities. If human research subjects are not involved, ‘significant interest’ is defined as a current or anticipated income of at least $10,000 from the company in any 12-month period, or ownership exceeding $10,000 or 5% equity (regardless of dollar value) in the company, or service as a director, officer, manager or other key employee of a company, even if unpaid. If human research subjects are involved, any interest (regardless of dollar value or percentage of ownership/equity) is deemed significant. Specifically, ‘significant interest’ is defined as any income from the company, any ownership or equity stake in the company, or any service as a director, officer, manager or other key employee of a company, even if unpaid.” This definition was changed to incorporate the
Public Health Service regulations, which represent the standard. Currently, there is a push from the federal government for this consistency across all federal organizations.

(21a) It is important to note that the federal regulations are being revised, and the definition of “significant financial interest” will change. This is one of several reasons for not including dollar amounts (etc.) in the Policy. It is important to note that the changed regulations are likely to affect the lists of activities that do and do not need to be reported (Sections III.E and III.F.), which here reflect the existing regulations, and which may need to be revised.

(22) Previously: C. General Principles, C.1 Conflict of Commitment Principles, C.2 Conflict of Interest Principles. These headings were changed for accuracy, as these are considerations, not principles.

III.C. Basic Considerations

(23) “As a result” replaces “because of.”

(24) Reworded slightly. “Are viewed positively” replaces “are promoted.”

III.C.1

(25) “The involvement of/in” was previously written as “Interaction between/and”.

(26) The content of the first paragraph is now reorganized and expanded into three paragraphs.

(27) “(T)he average of” one day per “seven-day” week was added for clarity. The “equivalent of eight hours = one day” metric, which was not specifically articulated in the prior version of the Policy, is used across campuses and has appeared in our supplemental guidance documents and resources for many years.

(28) The Committee concluded that outside employment of part-time staff would generally be permitted, but that the UEO should still review and approve these activities if they occur during the appointment period.

(29) Previously written as follows: “As a practical guide and subject to prior approval, the university may approve the equivalent of up to one day per week for full-time faculty (40 days per academic year appointment and 52 days per calendar year appointment). Release time is not an automatic entitlement and requires prior written approval by the unit executive officer. Such release time is not intended to result in the faculty member’s decreased level of commitment or service to the university.

Assuming prior approval has been given for an external activity, academic staff members are expected to arrange the outside obligations, financial interests, and activities so they do not impede or conflict with their university duties and responsibilities.
Released time is not normally available for activities that are primarily personal in nature, that do not enhance the academic staff member’s professional skills, or that are not a potential benefit to the university. University obligations must be met first and foremost.”

(30) The Committee concluded that since the remunerated activities in Section III.E do not generally present a conflict of commitment or interest, they would not generally need to be reported during the annual disclosure process, and that unremunerated activities are generally not reported. This paragraph replaces the last two paragraphs of III.C.1. If the new regulations change the nature of exempt (and hence unreported) activities, we would need to revise as necessary. (See comment 21a, above.)

III.C.2

(31) This section has been extensively rewritten and reorganized to discuss specific areas of concern – Research, Non-University Income Producing Activities, Business Relationships, Procurement-Related Conflicts, Intellectual Property, and Involvement of Students and Staff. The Conflict of Interest Principles section of the 2007 Revised Policy was composed of nine paragraphs. Below is an attempt to map the subsections in the new III.C.2 to these nine paragraphs, which are numbered in the attached 2007 revised version of the Policy.

<table>
<thead>
<tr>
<th>New Subsection</th>
<th>Addresses Content in Former Paragraphs in the 2007 Revised Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research</td>
<td>1, 2, 4, 7</td>
</tr>
<tr>
<td>Non-University Income Producing Activities</td>
<td>2,3</td>
</tr>
<tr>
<td>Business Relationships</td>
<td>6</td>
</tr>
<tr>
<td>Procurement-Related Conflicts</td>
<td>Not addressed explicitly (though the third bullet in Section IV.D referenced Presidential approval of contracts)</td>
</tr>
<tr>
<td>Intellectual Property</td>
<td>5 (Text is the same.)</td>
</tr>
<tr>
<td>Involvement of Students and Staff</td>
<td>8 (The concept of monitoring is reinforced in the newly revised Policy.)</td>
</tr>
</tbody>
</table>

Paragraph 9 in the 2007 Revised Policy is addressed in Section III.D.2 Duty of Cooperation.

(32) Previously included the language “that are required by the legitimate needs of the sponsor,” which was removed for clarity and to prevent minimization of the principle of freedom of dissemination.

(33) Sentence was changed to clarify the type of relationship that makes this activity improper.
(34) This heading was added to refer to procurement issues. The previous policy’s reference to presidential approval of contracts has been incorporated into this section.

III.C.3

(35) This is a condensation of what was previously in an Appendix on this topic.

III.D. Specific Responsibilities

(36) This section has been extensively reorganized and revised to reflect the specific responsibilities of the individual, the UEO, the responsible official, and the president’s designee under the newly revised policy.

In the Specific Responsibilities section of the 2007 revised policy, there were eight bullets. Below is a table mapping the newly revised policy to those eight bullets.

<table>
<thead>
<tr>
<th>New Bullet</th>
<th>Bullets in Specific Responsibilities section of 2007 Revised Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Overall responsibility</td>
<td>Not previously in this section</td>
</tr>
<tr>
<td>2. Duty of Cooperation</td>
<td>Previously addressed in the “Conflict of Interest Principles” earlier in the document</td>
</tr>
<tr>
<td>3.a. Academic staff</td>
<td>1, 2</td>
</tr>
<tr>
<td>3.b. UEO</td>
<td>3</td>
</tr>
<tr>
<td>3.c. Responsible Official</td>
<td>4</td>
</tr>
<tr>
<td>3.d. UEO review multiple units</td>
<td>Not previously addressed; but see comment (40), below</td>
</tr>
<tr>
<td>3.e. Conflict Review Committee</td>
<td>4, 7</td>
</tr>
<tr>
<td>3.f. Additional disclosure processes</td>
<td>Not previously addressed</td>
</tr>
<tr>
<td>3.g. Management Plan</td>
<td>5</td>
</tr>
<tr>
<td>3.h. Confidentiality</td>
<td>8</td>
</tr>
<tr>
<td>3.i. Communications with Agencies</td>
<td>4</td>
</tr>
<tr>
<td>3.j. Reporting to Agencies</td>
<td>8</td>
</tr>
<tr>
<td>3.k. Public Disclosure</td>
<td>Not previously addressed</td>
</tr>
<tr>
<td>3.l. Reporting and Training</td>
<td>Not previously addressed</td>
</tr>
</tbody>
</table>

(37) We have deleted the bullet “Individuals must fully meet their university responsibilities,” as this is handled earlier in the document.

(38) The portion of this bullet that referred to the need for the university to possess sufficient information has been moved.

(39) This has been reworded to refer to the responsible official.

(40) This is a new bullet intended to provide clarification regarding multiple appointments. Though this had not been explicit in the previous versions of the Policy, we have operated
under this principle; our processes and supporting materials require individuals with paid joint appointments to seek approval from each unit.

(41) Reworded and expanded to allow for additional disclosure processes.

(42) This has been shortened with a reference to other sections.

(43) This bullet was split into two bullets and has been reworded.

(44) Replaced “federal” with “governmental.”

III.E Examples of Allowable Income Producing Activities Generally Not Requiring Prior Approval (see also comment 21a, above)

(45) This bullet point is the combination of two previous points.

III.F Examples of Potential or Actual Conflicts of Commitment or Interest Requiring Prior Approval (see also comment 21a, above)

(46) These bullets expand and clarify what was previously a single bullet.

(47) Bullets 10, 11, 12, 14, 15 are new. They expand upon previous content.

Section IV. PROCEDURES

(48) Section IV has been extensively reorganized to lay out procedures and avoid duplication with other sections. Since responsibilities were laid out in Section III, we tried to avoid duplicating that information in Section III. This section now moves from disclosure, to review and approval, to management, to appeals, to sanctions, to provision for periodic review of the Policy and exceptions.

The role of the UEO is described earlier in the document, so is no longer described in this section.

The need to address situation specific disclosures and reports from third parties is addressed.

The management section IV.C has been rewritten. It is clear that if agreement on management of a conflict cannot be reached, the outside activity cannot be approved.

A process is specified for conflict management for employees with appointments in more than one unit.

The appeals process is clarified.

The Policy recognizes that sanctions may be applied under existing university policies.

It provides for periodic review of the Policy.
It provides for interim administrative action if needed.

It provides an exceptions process.

(49) These two paragraphs have been reworded to refer to staff in the plural, to refer to non-university income producing activities, to avoid reference to a specific disclosure document, and to refer to III.F as a list of activities that must be disclosed.

(50) The need to rescind approval of activities is addressed. It is not addressed in the current policy.

(51) This paragraph previously read, “Arrangements agreed upon to minimize or manage the conflict must be reduced to writing by the unit executive officer, signed by the staff member and attached to that member’s Report of Non-University Activity.” This Report shall be routed through regular reporting channels for approval (e.g., unit executive officer, dean, director, vice chancellor for research).” This paragraph attempts to avoid specifying a specific written report.

(52) New language.

(53) Legal Counsel drafted new language for this section. Also note large portions of the original policy have been removed from this section 5/21/10. See earlier drafts for comparison.

(54) Original language included reference to dismissal. Committee concluded this was not necessary in this policy.

(54a) The entity which conducts the periodic review of the Policy is changed from the Intellectual Property Committee to the president’s designee, and incorporates review of the revisions by the faculty senates.

(55) The needs for interim administrative action and for exceptions to the Policy are addressed. Neither is addressed in the current policy.