

**COLORADO STATE UNIVERSITY
ACADEMIC FACULTY AND ADMINISTRATIVE PROFESSIONAL MANUAL**

D.7.7 Conflict of Interest *(last revised June 10, 1998)*

D.7.7.1 Policy

Public employment and appointment is a public trust, and any effort to realize personal gain through official conduct, other than as compensation set through established processes, or disclosure of confidential information, is a violation of that trust. External obligations, financial interests, and activities of each University employee must be conducted so that there is no conflict or interference with the employee's primary obligation and commitment to the University. The mere perception of conflict of interest can cause lasting injury to the reputation of the employee and the University even when subsequent information shows those perceptions to be unfounded. Academic faculty members and administrative professionals must protect the public trust accorded them and are obligated to avoid even the appearance of conflicts of interest where possible. Conflicts of interest are not necessarily unwarranted, unethical, or illegal; nor are they always avoidable. Failure to disclose conflicts or potential conflicts, however, is unethical and may be illegal. This policy provides a means to ensure that both potential and actual conflicts of interest are managed so that responsibilities can be performed without compromise to the independence essential to scholarly life.

D.7.7.2 State Statutes Concerning Fiduciary Duties and Ethical Conduct

Public employees have a fiduciary duty to the people of the State as a trustee of property and are subject to the same liabilities that a private fiduciary would incur for abuse of his or her trust (C.R.S. 24-18-103). Public employees are prohibited from disclosure or use of confidential information acquired in the course of official duties for personal financial benefit or from acceptance of any substantial economic benefit as a reward or inducement for improper discharge of public duties (C.R.S. 24-18-104).

Public employees are guided by ethical principles of conduct related to conflicts of interest such that they (1) should not acquire or hold an interest, directly or indirectly, in any business or undertaking that may be economically benefited by action over which they have substantive authority and (2) should refrain, within six (6) months following departure from public employment, from such conflicts of interest (C.R.S. 24-18-105).

D.7.7.3 Disclosure of Conflicts of Interest When Substantial Discretionary Functions are Exercised
(last revised February 6, 2001)

Public employees are required to disclose a conflict of interest where they exercise a substantial discretionary function in connection with a government contract, purchase, payment or other pecuniary transactions without having given seventy-two hours advance written notice to the Secretary of State and the Board. Failure to disclose a conflict of interest is a criminal offense under State statutes (C.R.S. 18-8-308). Public employees will have an affirmative defense to any civil or criminal sanction that might otherwise apply to a breach of his or her fiduciary duty through voluntary and complete disclosure of real or potential conflicts of interest (C.R.S. 24-18-110). According to the *Board Manual of Policies and Procedures*, "a conflict of interest exists when a Board member or employee has or represents interests that may compete with or be adverse to those of the Board and the System." A 'potential conflicting interest' exists when the public servant is an executive officer or owns or controls directly or indirectly a substantial interest in any non-governmental entity participating in the transaction.

The Board deems such an interest to exist if a person or member of his or her immediate family² is affiliated with an organization and (1) is an officer, director, trustee, partner, agent, or employee of such non-governmental organization; (2) is either the actual or beneficial owner of more than five (5) percent of the stock or controlling interest of such non-governmental organization; or (3) has any other direct or indirect dealings with such non-governmental organization from which the person or family member knowingly is materially benefited by receiving directly or indirectly, cash or other property (exclusive of dividends and interest) in excess of the amount specified by the *Board Manual of Policies and Procedures*.

D.7.7.4 General University Rules and Procedures for Disclosing Conflicts of Interest³

Disclosure of affiliations and commitments that may involve conflict of interest whether or not they involve the exercise of a substantial discretionary function, covered by D.7.7.3 above, shall be made in a disclosure statement to his or her supervisor when a person is initially appointed by the University. *Annual disclosures shall be amended by preparation of a supplementary statement at any time that a real or potential conflict emerges.*

The following activities are examples of permissible activities that would not require disclosure as an actual or potential conflict of interest under the terms of this policy.

- a. Acceptance of royalties under the terms of the policy described in Section J, publication royalties, or honoraria for commissioned publications and lectures, or
- b. Services to professional, scientific, educational, artistic, cultural, civic, business or other organizations that enhance the value of the employee to the University and do not adversely affect the employee's primary commitment to the University.

D.7.7.4.1 Elements of Disclosure Statements

Disclosure statements ("Conflict of Interest" forms) shall address each of the following.

- a. Ownership by the employee or immediate family member (as defined above) of any equity interest in any firm that supports the employee's research or creative activity (including pending proposals);
- b. Ownership by the employee or immediate family member of any equity interest in any firm that is developing or marketing commercial products based on the employee's research or creative activities;
- c. Circumstances in which the employee is or appears to be in a position of significant influence over the University's business with a supplier or contractor with which the employee holds a significant financial or advisory interest (see D.7.7.3);
- d. Information on potential and apparent conflicts of interest described in D.7.7.3 and D.7.7.5.
- e. Any other information that the employee feels necessary to evaluate the disclosure.

D.7.7.4.2 Management Oversight

Supervisors are responsible for understanding the university's policy on conflict of interest, shall examine disclosures reported to them, and shall make one (1) or more of the following determinations:

- a. The reported activity is permissible because it falls within the scope of professional conduct, it serves the interests of the institution, and has been fully disclosed as required by law and to the satisfaction of the supervisor.
- b. Participation in related decision-making processes should be transferred to another person without a conflict of interest or other action necessary to avoid detriment to the institution resulting from such conflict. *The person may, nonetheless, participate in decision-making processes if such participation is deemed necessary by an administrator of the next level and if the person has complied with the voluntary disclosure procedures under C.R.S. 24-18-110 (see Section D.7.7.3).*

After due analysis of the reported activity, the supervisor shall make a recommendation for review by the Provost, in the case of individuals in academic units, and by the corresponding vice president for individuals in other units.

Primary responsibility for monitoring compliance with this Conflict of Interest policy is assigned to the Provost, with powers of delegation to deans and the other vice presidents ("senior administrators"). The Provost's office shall provide annual training sessions for all new senior administrators. These senior administrators are responsible for providing annual Conflict of Interest training for all employees with significant supervisory responsibility and for monitoring compliance by all on-campus and off-campus employees. The Director of Human Resource Services shall assure that all new employees receive copies of the Conflict of Interest policy and Disclosure form in order to facilitate completion of appropriate disclosures at the time of initial employment. Questions concerning the policy should be directed to the employee's immediate supervisor.

D.7.7.5 Examples of Apparent and Actual Conflicts of Interest

D.7.7.5.1 Apparent Conflicts of Interest

The following are examples of apparent conflicts of interests. In many cases, the potential for conflict can be removed by prior disclosure and appropriate review.

- a. Certain types of outside employment or offers of outside employment involving assignments that have the potential to compromise the institutional position of the individual;
- b. Consulting relationships involving activities with the potential to compromise the institutional position of the individual;
- c. Relationships that might enable employees to influence the University's interactions with companies and other kinds of organizations doing business with the institution for personal gain.

D.7.7.5.2 Actual Conflicts of Interest

The following activities create conflicts of interest and must be disclosed and reviewed prior to being undertaken. The University shall disapprove the activity if a conflict of interest is involved that cannot be resolved or removed.

- a. Performing work for individual benefit when the work in question falls within the regular assignment of the individual;
- b. Any outside relationships that conflict with the institutional teaching, research, and service responsibilities of the individual;
- c. Financial gain to the individual that results from involvement in institutional decisions;
- d. Financial interests in companies and other kinds of organizations doing business with the institution;
- e. Unauthorized disclosure of unpublished, privileged, or confidential information from a colleague or other University source for personal gain;
- f. Directly or indirectly selling, renting, trading, or leasing personal property to the University without full disclosure of the employee's interests;
- g. Assignment of students or other supervisees into research or other activities from which only the employee intends to realize personal financial gain;
- h. Use of University equipment for private consulting or research arrangements that may involve personal gain;

i. Consultations that impose obligations that conflict with the University's policy on ownership of creative and scholarly works (see Section J.7.1) or obligations to research sponsors (see Section J.7.3).

D.7.7.6 Procedures for Instituting and Processing Conflict of Interest Charges

Any person who wishes to institute a charge of conflict of interest against a University employee or other public servant of the University shall file a written complaint with the supervisor of the individual against whom the charge is made. The Complaint shall include the name of the individual so charged, a statement of the particulars pertaining to the charge, and the name of the person making the charge. Requests for confidentiality will be honored to the extent permitted by law. Retaliatory action against persons who make such charges is prohibited under law (C.R.S. 24-50.5-103).

The supervisor, in consultation with other appropriate administrators, shall determine if an investigation of the charge is warranted. If investigation is warranted, it will be conducted in accordance with procedures set forth in the *Manual* and in University guidelines and policies applicable to the employee. The member of the academic faculty or administrative professional concerning whom an investigation is undertaken shall be notified in writing of the nature of the charge and shall be expected to cooperate in the investigation, disclosing the financial and other particulars of the situation to the person(s) conducting the investigation. Conduct representing willful violation of this policy will result in appropriate disciplinary action by the University. Except where otherwise prohibited, employees will have the right to grieve under Section K of the *Manual*.