

Conflict of Interest Policy Proposed November 2007 Modifications for Senate Review:

CHANGES REQUIRING DISCUSSION AND VOTE TO APPROVE OR NOT APPROVE:

1. Page 1 footnote change: adherence to “more restrictive policy” has been changed to “most restrictive policy”.

2. Changes annual reporting requirement from “ALL EMPLOYEES” to only Faculty and Key Personnel with other employees reporting only on a project basis. See pages: 1, 7 (definition), 11 (Section I paragraph 4a) & 12 (Section K 1a1)
 - a. Argument for approving change: This reduces administrative burden, paperwork and need for annual disclosures for nearly 50% of UNR workforce. Faculty who are only part-time LOA instructors should be excluded from annual reporting as well. This change is based on state law definition of “public officers” who must report annually. We think we can limit annual disclosure only to employees who make decisions in the conduct, design, or purchasing decisions within the University. This will make it easier for central administration and the COI committee to keep up with the paperwork.
 - b. Argument against approving change: If ALL employees report annually, there is no difficulty in determining who does or does not need to report – so it is easier to manage for administrators. If we are now excluding some from the requirement, will it be less easy to make sure we are in compliance with state law annual reporting requirements? Does full disclosure benefit outweigh administrative burden issues? Will we be missing individuals who should be reporting annually?

3. Changes definition of and reference to the term “Relative” and replaces it with “Household or Family Members”. Prior language used NRS definition of relative “within 3 degrees of consanguinity”. This has been replaced with less onerous and more easily identifiable immediate household members. New definition is a combination of the federal definitions of household members, the state law definition and the Board of Regents definition. It is a hybrid with BOR definition excluding “domestic partners”. See definitions 8 & 9 on page 3. Additionally, the term “relative” has been replaced throughout the document with “Family Member” or “Household Members”.
 - a. Argument for approving change: 3 degrees of consanguinity is an unenforceable and unreasonable definition. Most people have no idea what their cousins twice removed are doing in their business lives. It is over-reaching and over-broad. A vote for this change will narrow the definition to immediate household members.
 - b. Argument against approving change: Currently, the federal, state law and Board of Regents definitions of relatives and household members are different, the proposed definition is a hybrid between the three discrepant definitions. There has been an ongoing debate surrounding “domestic partners”. Some argue that if domestic partners are not eligible for “relative” benefits under BOR definitions, they should not be considered as “household members” either, but federal and state laws define household members as those receiving significant “support” from the employee. This dispute is still unresolved, but, the

changes to the definitions here might be sufficiently flexible to allow for future BOR changes on this matter.

4. Change to C.1 on page 3. adds the term “pecuniary” to the word incentive – thereby limiting scope of “incentive”.
 - a. Argument for approving change: This limits the definition of incentive to only fiscal incentive instead of leaving it up to a nebulous incentive.
 - b. Argument against approving change: Can’t think of one
5. Addition of paragraph 4 on page 11. This paragraph is addressed primarily to Administrative Officials with signature authority for the University who bind the University in contracts where the Institution might have an institutional conflict of interest. This change was made to bring institutional conflict of interest federal compliance lessons from other institutions into the UNR policy.
 - a. Argument for Approval: This paragraph is designed to make sure officials who might be influenced by institutional conflicts do not sign off on agreements that do not appear to be at hands-length. It does not impact regular faculty or individual conflicts of interest.
 - b. Argument against Approval: This might prevent the University from entering into agreements with private companies run by faculty members when the University has an equity interest – so, there might be impact to individual faculty members in their capacity as external corporate employees or owners. Is this too much of a barrier for industry-university partnering? If it is not adopted, do we run the risk of violating federal regulations?
6. Change to section J.1.a: Conflict of Interest Committee: Adds a community member not otherwise affiliated with the University to the standing Conflict of Interest Committee. This change was recommended by some of the Board of Regents and Chancellor’s office as a mechanism to show openness to the community and taxpayers of the state of Nevada. It is not required by Policy, statute or regulation but is seen as a step toward more transparency without actually releasing confidential documents. The changes also and removes the Designated Official as a voting member of the Committee. This change was prompted by the hiring of an official separate from existing members of the Committee.
 - a. Argument for Approval: Symbolizes more external transparency for Regents and the press. The designated official change separates the triage process from the management process.
 - b. Argument Against Approval: Getting a community member to serve on the committee might be more difficult and could provide delays in getting the standing committee together. Some individuals might be concerned about potential leaks of confidential information, however, all committee members sign a statement of confidentiality before any records are reviewed.
7. Change to section K 1a1 page 13: clarifies that the annual disclosures will be submitted as part of the annual evaluation process. This was not clear in the earlier COI policy because the policy had not yet been implemented. This change reflects how the policy has since been procedurally implemented. Paragraph 2 also specifies a timeline of 10 days for submission of a new COI in the event something changes regarding external interests. The earlier policy specified only “promptly” without a timeline.

- a. Argument for approval: This clarifies key procedural aspects of the policy regarding timing of annual disclosures and defines promptly so there are no questions related to the required timing of disclosures.
 - b. Argument against approval: 10 days is not enough time to update a disclosure – a different timeline would be better. Inclusion of the paperwork along with annual evaluations isn't a good idea . . . etc.
8. Change to section K 2 page 13: clarifies when project based disclosures might be necessary. (No pro or con argument – this is simply a clarification to try and make this portion more understandable.)
9. Addition of paragraph d top of page 14: This change is directed at the Designated Official regarding record keeping requirements. Currently, the DO only keeps record of any positive disclosures and all negative disclosures are simply filed within a particular department. This paragraph would change this to a central repository for all positive and negative disclosures so central administration can more fully answer auditor questions regarding who has or has not disclosed on an annual basis.
- a. Argument for approval: This allows for timely information to appropriate audit entities as questions arise instead of having the auditors go back to the individual departments and may serve to enhance compliance in this area. One of the primary reasons for this change was due to UNR's new IRB accreditation by AAHARP that requires this data to be shared with the Office of Human Research Protection.
 - b. Argument against approval: Currently, there are insufficient electronic and personnel resources at the central level to keep track of all COI forms submitted. This would not be implemented until such a system exists. This seems to take away from local control of the COI processes.
10. Changes to paragraph e page 14 related to appeals for institutional conflicts of interest. The current COI policy states that appeals will go to the Board of Regents. The new revisions specify that appeals would go to the Executive Vice Chancellor instead.
- a. Argument for approval: Most would agree that having the BOR looking at some of this might not be an effective or efficient or confidential way to handle conflict reviews, thus, using the Vice Chancellor is a far better alternative
 - b. Argument against approval: The BOR should be fully engaged in these matters and should be the appellate entity.

INFORMATIONAL CHANGES BASED ON STATE LAW, FEDERAL LAW, BOR OR ADMIN MANUAL MODIFICATIONS AND/OR CURRENT PRACTICE THAT ARE NOT NEGOTIABLE WITHOUT A CORRESPONDING CHANGE IN LAW OR BOR POLICY.

11. Changes to Citations due to the change in institutional name from UCCSN to NSHE and changes from individual Board of Regents and Chancellor policies to those contained in the new NSHE Handbook. Also minor changes to the names of campus entities: Office of Human Research Protection instead of "IRB" and the Administrative Manual Committee instead of "Policy and Procedure Board".

12. Change to Section E “Conflict of Interest Situations on page 4. This was a wholesale rewrite of the “Use of University Property or Facilities and replaces the entire section with verbatim repetition of the Board of Regents and current Admin Manual requirements pertaining to use of University facilities. These policies are highly restrictive with only nominal use allowed with such nominal use to be paid for. It does not allow for any significant use of University facilities even if the costs are reimbursed. To make this a little more flexible, additional language was negotiated with legal counsel in Section E paragraph 2 to allow for more significant paid use so long as such use is approved by the President. This is an exception to the BOR policy.
 - a. Informational Item positives: There is probably not much we can do at this point about what the BOR policy requires regarding NSHE property usage so, the additional flexibility in paragraph 2 is a good exception to allow for industry/university partnering on our campus with an approval mechanism.
 - b. Informational Item negatives: We could vote to not agree to NSHE policy and try to get the BOR to change their policy to be more flexible than “nominal use”. (NOTE: NRS code 281 requires presidential approval of potential conflicts related to contractual relations so long as signed off by the President)
13. Change to Section H2e on page 10: This is a re-write of the references to the BOR consulting policy. The prior language merely copied the prior consulting policy and the language here again, copies the revised consulting policy. As has been discussed by the prior Senate, a change to the consulting policy for 12 month faculty went into effect in 2004 after the Conflict of Interest policy was originally approved. This change brings this policy in line with the new Consulting policy passed by the Chancellor that requires 12 month faculty to take annual leave in order to do consulting work.. This has been accomplished by reference instead of by copying the exact wording of the new Regents policy in order to allow this policy to automatically change in the event the Regent’s consulting policy changes. Additionally, Paragraph 3 has added references back to the NSHE facility usage rules.
14. Change to Section 3a on page 11 to include the UNR foundation and Research Ventures, Inc. which is the entity that holds corporate equities on behalf of UNR. When the COI policy was initially drafted, the Research Ventures Inc. entity was not yet fully up and running. Thus, this change incorporates reality about how UNR holds equity in resolving institutional conflicts of interest: This change really does not have any impact in individual faculty members, it is merely a statement of fact.
15. Change to Section K 3 on page 13 – Confidentiality: Language was added to satisfy November 2007 changes to Board of Regents Handbook Title 4 Chapter 3 Section 8, which requires the University to provide an annual aggregate public report of disclosed and approved outside consulting activities.
16. Changes to Section K c page 13. Changes language from “may” to “must” since this is what the federal government requires. Language reflects federal regulatory language more directly.