

University Policy on Conflicts of Interest

A. POLICY STATEMENT¹

1. This document sets forth University, NSHE Board of Regents, State and Federal requirements to identify, manage, reduce and/or eliminate conflicts of interest. The key to conflict of interest management is timely and appropriate disclosure by University Employees who shall disclose any outside activity or interest that may adversely affect, compromise, or be incompatible with the obligations of the Employee to the University or to widely recognized professional norms as defined herein. Employees shall disclose all potential conflicts held by the Employee or the Employee's Household or Family Members that the Employee knew or should have known. Such disclosure shall be made on an annual basis by Faculty and Key Personnel and on a project basis as necessary for other employees. Potential conflicts of interest, when properly disclosed and managed, can serve to benefit the University, the State of Nevada, and the Nation. This document prescribes procedures for disclosure, review, and for the exercise of ongoing oversight of potential and/or actual conflicts where necessary. It also provides for review of decisions at higher levels of University administration. Lastly, it indicates the sanctions that may be applied when the policy is violated.

B. PURPOSE AND SCOPE¹

1. In carrying out its primary missions of teaching, research and service, the University must implement a diverse set of principles: maintaining academic freedom and an atmosphere that promotes free and open scholarly inquiry without bias; facilitating the transfer of technology and other developments for the benefit of the public; and serving as the steward of public and private resources entrusted to it. There are several general categories of Conflict of Interest that this policy will address: Research and Other Sponsored Projects, Use of University Resources, Technology Transfer and Commercial Endeavors, and Institutional Conflict of Interest. The University recognizes the value of transferring technology and other activities to enhance public access to University research and to further the economic development of the State and the Nation. Additionally, participation by academic and administrative faculty, staff and students in external activities that enhance their professional skills or constitute public service may be beneficial to the University as well as the individual. As the institution grows and develops relationships with federal, state, and private institutions, the potential for conflicts of interest increases. These conflicts, when properly disclosed and managed can serve to benefit the institution, and spur economic development and diversity for the state of Nevada and its citizens. The primary goal of this policy is to provide a means to manage potential conflicts to enhance the benefit to the public and reduce or eliminate the costs and perceived negative outcomes that such potential conflicts may carry.
2. To this end, it is critical that business transactions and the design, conduct or reporting of research will not be biased or compromised by any conflicting financial interest or other potential or actual personal gain of an Investigator or the University or one of its units. Failure to comply may

¹ This policy overlaps with but does not supplant University Employees' responsibilities under the Nevada Ethics in Government Law, NRS 281.411., which in some instances may include additional reporting responsibilities. In many instances, this policy is broader than the Ethics Act in the situations covered. Also, incorporated by reference are the NSHE Board of Regents Handbook; UNR administrative manual; the National Science Foundation Policy; Grant Policy Manual 510, Investigator Disclosure Policy, 60 F.R. 132, pp. 35810-823 (July 11, 1995) and U.S. Department of Health and Human Services, Objectivity in Research Subpart F-Responsibility of Applicants for Prompting Objectivity in Research for Which Funding is Sought, 42 CFR Part 50, Subpart F. As additional external federal policies are imposed, or if project specific requirements are imposed by a federal or state sponsor, this policy will incorporate such new policies by reference. In all events, adherence to the most restrictive policy is required.

jeopardize existing or future funding, and erode public trust. The University recognizes that many potential conflicts of interest do not constitute actual conflicts or may be acceptable with proper oversight and safeguards. The complexity and diversity of professional relationships has grown increasingly intertwined with outside entities in research and other University activities. Increased research support from private entities, changes in federal law and regulations encouraging technology transfer and the need for the University and its Employees to demonstrate public accountability mandate new approaches in the discovery and management of potential conflict of interest situations. This may require reevaluation of previously acceptable activities. The most effective way to address conflict of interest is to establish a process by which Employees disclose and obtain evaluation of potential conflict on a case by case basis.

C. APPLICABILITY

1. This policy applies to all University Employees. As appropriate, subcontractors and other external collaborators must also comply with this policy unless their institution/company provides adequate assurances that they are in compliance with the federal regulations referenced below. This policy applies to any research, education or service activity regardless of whether or not support is provided to the University or Employee. Support may be in the form of sponsorship, pecuniary incentive, equipment or gift.
2. Conflicts also arise in procurement situations when an Employee has the option of purchasing goods or services from entities in which the Employee has a substantial financial or other interest. Procurement conflicts are treated separately in the NSHE Business Center North Purchasing Policies and Procedures and are not within the scope of this policy. However, because conflict of interest situations covered by this policy may also involve procurement issues, the Conflicts of Interest Committee will, from time to time, need to coordinate their efforts with the Director of Purchasing.

D. DEFINITIONS

1. “**Business Entity**” means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a trade or business, including parent organizations of such entities or any other arrangement in which an entity operates through a subsidiary.
2. “**Clinical Investigations**” include any research project dealing with humans, including medical industry corporation or other private business entity sponsored trials, departmental sponsored research, studies utilizing human tissues, social science research, and medical chart reviews.
3. “**Conflict of Commitment**” may occur when external activities demand excessive time, conflicting with an Employee’s responsibilities to the University, or when external activities result in direct competition with University activities.
4. “**Conflict of Interest**” means any outside activity or interest that may adversely affect, compromise, or be incompatible with the obligations of an Employee to the University or to widely recognized professional norms. A significant conflict of interest includes, but is not limited to, situations where consideration of a significant financial or other interests will likely affect the approval, design, conduct, or reporting of research or other projects or the objectivity of decision making as an Employee of the University.
5. “**Designated Official**” is the person responsible for reviewing all financial disclosures and will review situation information and advise the Conflict of Interest Committee as to whether a conflict of interest exists. The designated official shall be appointed by the President of the University. This individual may change from time to time upon designation by the President.
6. “**Employee**” means any person who is employed by the University of Nevada, Reno, whether full or part time, and includes but is not limited to staff, faculty, postdoctoral appointees, residents and

student Employees. It also includes Investigators as defined by the federal policies referenced below and individuals who are not paid on a project (i.e., “volunteers”).

7. “Faculty and Key Personnel” include individuals who are engaged at least 0.5 FTE as a faculty member and/or who serve as a Principal or Co-Principal Investigator on research or other projects and who are involved in the design, conduct, execution, reporting or fiscal oversight of University or externally funded projects and/or individuals who are determined to be Inventors of Intellectual Property by use of University resources.
8. “Family Member” means spouse and any other persons such a child, parent, sibling or other family member claimed on the Employee’s tax return.
9. “Household Members” means an association of persons who live in the same home or dwelling, sharing its expenses, and who are related by blood, adoption or marriage.
10. “**Institutional Conflict of Interest**” refers to situations where the University’s beneficial relationship with corporate entities may place it in conflict with its responsibilities as a public institution of higher education. The conflict may involve equity interest in companies, certain licensing situations, and Board and other leadership positions held by University faculty or administrators.
11. “**Intellectual Property**” means any ideas, inventions, technology, creative expression and embodiments thereof, in which a proprietary interest may be claimed, including but not limited to, patents, copyrights, trademarks, know-how, and biological materials. This policy is intended to affect only that Intellectual Property owned by the University. It does not alter other University policies that determine ownership of Intellectual Property.
12. “**Investigator**” includes any faculty, staff, postdoctoral fellow, resident or student who is responsible for the design, conduct or reporting of research or scholarly activities conducted in whole or in part at the University of Nevada.
13. “**Personal Gain**” includes gifts and other incentives to Investigators, their University departments, or other University entity, or immediate family members.
14. “**Research Agreements**” may include testing agreements, service agreements, collaborative agreements, clinical investigation agreements, purchase orders, material transfer agreements, confidentiality agreements and any other written agreement between the University and an external entity that has been duly signed and agreed upon by authorized officials of the cooperating entities.
15. “**Significant Financial or Other Interest**” means ownership by the Employee or Household or Family or Family Member of 5% or more of the capital stock, assets, or control of any business entity or income amounting to more than \$10,000.00 aggregate in a 12 month period from a single external entity to the Employee and his/her Household or Family or Family Member or 5% or more of the gross income of the Employee or Household or Family or Family Member from any business entity. It includes anything of significant 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); intellectual property rights (e.g., patents, copyrights and royalties from such rights); or other item of monetary value. Significant financial or other interest also includes the holding of a position as an officer, director, agent, consultant or Employee of a business entity. Significant Financial or other Interest includes such interests held by the Employee and by the Employee’s Household or Family or Family Members. The term does NOT include:
 - a. Salary, royalty income from copy-written materials except for income derived from technology transfer licensing, or other remuneration from the University;
 - b. Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
 - c. Income from service on advisory committees or review panels for public or nonprofit entities;
 - d. Equity interest that when aggregated for the Employee and the Employee’s Household or Family or Family Member meets both of the following tests.

1. Does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measure of fair market value, and
 2. Does not represent more than a five percent (5%) ownership interest in any single entity;
 - e. Income from mutual funds and /or pension funds; and/or
 - f. A percentage of income received from the Veteran's Administration Medical Center as part of physician reimbursement for University faculty or income generated under and in compliance with the physician practice plans approved by the Dean of the Medical School .
16. "**Technology Transfer**" includes any option, license, assignment, or conveyance of any other legal or equitable interest in Intellectual Property owned by the University, including but not limited to the right to make, market, copy, sell, or use such property in any way.

E. CONFLICT OF INTEREST SITUATIONS

1. The issues addressed in this section include situations that constitute a Conflict of Interest and require full disclosure. Approved conflicts of interest require oversight by the University and may require modification to reduce or eliminate the conflict. Certain activities present an unacceptable Conflict of Interest that the University will not allow under any circumstances (See Section G below).
 - a. ***Use of University Property or Facilities.***
 1. Employees shall not use NSHE time, property, equipment, or other facility to benefit their personal or financial interest.² However, as provided in NRS 281.481(7), limited use for personal purposes is allowable if the use does not interfere with the performance of an employee's duties, the cost and value related to the use is nominal, and the use does not create the appearance of impropriety or of NSHE endorsement. Personal use shall not interfere with official institutional use. Personal use of NSHE time, property, equipment, or other facility must be approved in advance by the employee's supervisor. If the institution or unit incurs a cost as a result of a use that is authorized pursuant to this policy or would ordinarily charge a member of the public for the use, the employee shall promptly reimburse the cost or pay the charge. An employee who intentionally or negligently damages NSHE property, equipment, or other facility shall be held responsible for the resultant expense.
 2. Except as otherwise approved pursuant to this or other University policy or agreement, use of University facilities and equipment resulting in identifiable costs to the University **REQUIRES APPROVAL** by the Provost. Approval of such situations may be granted in exceptional circumstances conditioned upon reimbursement of costs. Only the President may grant exceptions to the requirement for reimbursement.
 - b. ***Conflict of Interest Involving Students.***³ Research agreements with external sponsors, especially entities in which an Investigator has a financial, managerial or executive relationship must maintain basic academic values and promote open dissemination of knowledge. Student participation in such activities is of particular concern. It is important that the educational experience of students and postdoctoral fellows not be influenced detrimentally by faculty special interests or relationships with external funding entities. Consistent with these policies and concerns, the following projects require **APPROVAL** before they are commenced and **MONITORING** throughout:

² NSHE Code; Title 4, Chapter 1, Section 25.

³ This section is not intended to preclude the involvement of research assistants or research associates who are primarily University Employees in support of commercial activities or work that will not be used for evaluation of a student or fulfillment of degree requirements, under arrangements otherwise consistent with this and other University policies.

1. Projects of a confidential nature that include restrictions of student publication or communication rights with respect to research or other work that will be the basis of evaluation of the student or fulfillment of degree requirements. Such projects will only be permitted if the publication restrictions are reasonably necessary to protect intellectual property rights and do not prevent the publication of student research in a timely manner. Publication in a timely manner shall usually be the earlier of 60 days from the completion of the project or the completion of the student's degree requirements.
 2. Sponsored research projects involving students that have the potential to benefit substantially a business entity in which a faculty member has a significant financial or other interest. Approval shall be granted only where there is a demonstration that students will receive some academic benefit from their efforts without risk to academic freedom, integrity and objectivity. Approval shall not be granted where such research is motivated primarily by commercial concerns and will be the basis of evaluation of the student or fulfillment of degree requirements.
 3. Sponsored research projects where a student is both working on a project for a faculty member at the University and working at a company in which the faculty member has a financial or other interest.
 4. Sponsored research where the research is driven primarily by commercial considerations and the sponsor is involved in the direction of the research.
- c. ***Interactions with Private Enterprise.***⁴ All of the examples described in this section have the potential for appearance of, and actual, misallocation of resources. Each situation requires APPROVAL AND MONITORING. Approval should normally be based on the proponent demonstrating that the activity significantly benefits the University and its public mission and does not involve an unacceptable risk of misallocation of funds and other resources or breach of the University's integrity. Approvals will be conditioned on technical and financial oversight of the project and any related activities, as well as reimbursement of all costs for uses of University resources that primarily benefit private entities.
1. Research projects where an Employee also has direct or indirect authority over expenditure of funds and where the research is sponsored by a business entity in which the Employee or his/her Household or Family Members have a significant financial or other interest.
 2. Reimbursed use of faculty, students, research associates, technicians or other staff supported by public funds for work motivated primarily by commercial concerns or intended to benefit a business entity in which an involved Employee or his/her Household or Family Members have a significant financial or other interest.
 3. Participation by an Employee in a University decision that has the potential to benefit significantly or injure, directly or indirectly, a business entity in which the Employee or his/her Household or Family Members have a significant financial or other interest. The preferred procedure will normally be for the Employee to withdraw from participation in the decision. In no event should the Employee be the final decision maker.
 4. Use of University or other public or private funds for expenditures that have the potential to benefit a business entity significantly in which an Employee or his/her Household or Family Members have a significant financial or other interest. One example of this situation is the purchase of equipment that may be useful to a business for which the Employee consults, or in which an Employee has an ownership interest. Another example of this situation is a

⁴ The procurement of general goods and services from private enterprises can create significant potential conflicts of interest. Procurement conflicts are specifically addressed in the Board of Regents Handbook, Title 4, Chapter 10, Section 1 (7) and are not within the purpose and scope of this policy. However, because conflict situations covered by this policy may also involve procurement issues, this policy and the Board of Regents Handbook policy may both apply.

- project involving testing of a product in which an Employee has a significant financial or other interest, or a product that is a competitor of a product in which the Employee has a significant financial or other interest.
5. Transfer of University technology or other Intellectual Property to a business entity in which the University Employee inventor or his/her Household or Family Member has a significant financial or other interest.
 6. Clinician referrals to a business entity in which the clinician/ Employee or his/her Household or Family Member has a significant financial or other interest unless such referral is otherwise authorized under the UNR physician practice plan.
 7. Submission of proposals and acceptance of awards for grants or contracts by, to or from a business entity in which an involved Employee or his/her Household or Family Member has a significant financial or other interest, where the subject matter of grant proposal is substantially related to the Employee's University research and where the University is qualified and eligible to apply.

F. CLINICAL RESEARCH

1. It is critically important for the University to manage conflicts in the area of Clinical Investigations due to the ethical requirement for protection of research participants and the general public. Financial or other personal gain interests of the Investigators, their Household or Family Members, the University, or units of the University must not influence, or appear to influence, the approval, design, conduct or reporting of research or any clinical trials involving the evaluation of products such as drugs or medical devices or procedures. It is of the utmost importance that personal gain by any member of the clinical research team not influence the consent process such that participation is encouraged by even subtle minimization of the risks and exaggeration of the benefits to the potential subject. Additionally, arrangements with corporate sponsors which include recruitment bonuses, time designated accrual incentives, or finder-fees may influence the consent process, the reporting of adverse events, or the analysis of the data, thereby creating conflicts which must be disclosed and reviewed. For these reasons, the following policies apply to all Clinical Research projects at the University:
 - a. Prior to each study involving human subjects, all aspects of financial relationships between members of the investigative team, their Household or Family Members, the University and its entities, and the corporate sponsor must be DISCLOSED. These include commitments of financial support unrelated to the current study, financial incentives, payments as a consultant, and non-monetary rewards and incentives to Investigators and their Household or Family Members, including travel, entertainment and gifts.
 - b. Clinical research projects sponsored by business entities where Investigators, other Employees, or their Household or Family Members, or University units, have significant financial or other interests require APPROVAL and MONITORING. Employees with significant conflicts may participate as an Investigator or key personnel only under exceptional circumstances. Under no circumstances shall a conflicted Employee obtain consent from subjects for their participation in a research project. At the time of a new study submission and at the time of continuing review, the IRB will evaluate how the management plan suggested by the Conflict of Interest committee affects the conduct of the research or research subjects. In that review, the IRB will determine if the proposed management plan needs to be modified to protect the research subjects.
 - c. All studies of human subjects REQUIRE APPROVAL from the Institutional Review Board (IRB) with additional assurance from the Investigators that there are no personal conflicts that may threaten the safety and privacy interests of the patient/research subject and public trust of the University's integrity and credibility.

- d. Any financial or other interest that an Investigator, his/her Household or Family Member, or a unit of the University, have in a business entity sponsoring a clinical investigation must be DISCLOSED to the subjects recruited into the study.
- e. Sponsors of human research may provide payments or incentives related to a specific study by depositing into a departmental account. Employees with a financial or other interest in the sponsoring entity should not have signatory privileges on this account for disbursement of funds. Individual Employees involved in a study may not themselves or on behalf of their Household or Family Members, accept payments, incentives or gifts from sponsors of clinical research.

G. ACTIVITIES THAT ARE NOT ALLOWED⁵

1. The following activities present conflicts of interest that cannot properly or effectively be approved and monitored and, therefore, are NOT ALLOWED.

- a. ***Solicitation or Receipt of Gifts.***

1. Solicitation or receipt by a University Employee or his/her department of a gift (including money, non-pecuniary gifts, excessive compensation or non-commercial loans) where
 - i. The purpose or effect of the gift is likely to influence the Employee in the discharge of his/her University responsibilities (i.e., vendor selection);
 - ii. The gift is given to reward the Employee for official action taken; or
 - iii. The gift is given in close proximity to recent past, present or future transactions between the University and the giver of the gift.
2. This section is not intended to apply to the regular or ordinary compensation an Employee receives from a business entity in situations covered above by Section E.1.c, where approvals have been granted. This section also does not apply to occasional non-pecuniary gifts that have an insignificant monetary value and would not tend to influence an Employee in the discharge of his/her duties.

- b. ***Academic Freedom.***

1. Secrecy or confidentiality requirements beyond the scope of Section E.1.b on projects that will be the basis of evaluation of a student or fulfillment of degree requirements, or evaluation of faculty or other Employees.
2. Arrangements that permit sponsor interference with the scientific analysis or publication of research results or conclusions.
3. Evaluation of faculty, postdoctoral fellows, staff, or students based on participation in (or refusal to participate in) outside activities involving business entities in which the evaluating Employee or his/her Household or Family Member have a significant financial or other interest. The involved Employee shall not participate in such evaluations.

- c. ***Conflicts Associated with University Employees and Private Enterprise.***

1. Non-reimbursed involvement of faculty, students, research associates, technicians, or other staff supported by public funds, on University time, for work motivated primarily by commercial concerns or intended to benefit a business entity. Such involvement must be disclosed and the University resources utilized must be fully compensated by the commercial entity through a negotiated contract in accordance with the Board of Regents Policy.

⁵ NOTE: A University Employee advising a government agency on matters in which the Employee has a significant financial or other interest, evaluating commercial competitors for a government agency, or consulting for a federal agency while conducting research sponsored by the agency, may be subject to agency conflicts of interest policies and disclosure requirements. Employees should remember that such requirements exist separate from and in addition to University requirements.

2. Physician consultation for the purpose of marketing a product for a medical product company when the physician/researcher is in receipt of a grant or contract from the same company.
3. Obtaining consent of subjects by Employees who themselves, or whose Household or Family Member members, have financial or other interests in an entity sponsoring the clinical research.
4. Conflicts between an Employee's obligations to the University and his/her commitments to an outside entity, including a sponsor of University-based research. For example, an Employee may not have an agreement with a sponsor regarding transfer of technology or Intellectual Property in conflict with the University policy governing ownership of Intellectual Property.
5. Transfer of University technology or other Intellectual Property without following the University's patent and copyright policies.
6. Use of the University's name in connection with private activities in a manner that inappropriately suggests that the University endorses, sponsors or approves of such activities or views of the Employee.
7. Use of the University's facilities, equipment, property, or personnel by an outside entity in which an Employee has a significant financial interest. Unless the entity has an agreement for lease or use of such space, equipment property or personnel signed by an institutional official with signature authority for the institution.
8. Receipt of publisher incentive fees by an Employee who has authority to require educational materials for students involved in specific coursework at the University. This provision does not preclude royalty payments to authors of educational materials used by students in their coursework.
9. Sponsored Agreements or sub-agreements between the University and an organization where an Employee or his/her Household or Family Members has a significant financial interest which do not fully reimburse the University for use of facilities, personnel, equipment, space or other resources including full payment of University overhead and other rates for such use.

H. CONFLICT OF COMMITMENT⁶

1. Conflict of Commitment may occur when external activities, including consulting and other professional or personal activities, compete with an Employee's responsibilities to the University and detract from the mission of the University. All University personnel holding full-time⁷ positions shall give full service to University work during scheduled work periods. Any non-University employment must not interfere with the discharge of the person's full-time service obligations to the University. Full-time University Employees will treat the University as their prime employment activity.
2. Part-time or full-time employment in an off-campus position or business enterprise in addition to full-time University employment is discouraged unless such off campus employment is considered to

⁶ This section incorporates the consultant policy and use of University resources policies located in the University Administrative Manual.

⁷ Full-time - An employment relationship, applicable to both faculty and classified Employees, which requires a commitment of 100% of the individual's normal and expected working time and effort. Full-time employment is generally inconsistent with the acceptance of any other employment on a continuous or permanent basis. However, such activities may be acceptable with Department Chair or appropriate supervisor permission. In the event the employment poses a potential significant financial conflict or conflict of commitment, such potential conflicts should be disclosed to the University under the processes defined in this policy. Also refer to the Board of Regents Handbook, Title 4, Chapter 3, section 8.

improve upon or facilitate the Employee's teaching or other University duties. Each faculty member or classified staff member is responsible to inform his/her immediate superior of all such outside employment activities.

- a. **Public Service.** The University approves of public service activities that are not incompatible with full performance of University duties and not inconsistent with University policies and procedures.
- b. **Outside Teaching.** Academic Faculty members may not accept employment for, and may not perform, any teaching, instructional, or research services for other academic institutions during teaching semesters without the knowledge and written approval of the cognizant chair and dean. Compensated or uncompensated participation in an occasional short-term conference, seminar, or symposium or the delivery of a scholarly paper or public address at a professional meeting or academic gathering under the auspices of an academic institution, does not violate this policy.
- c. **Public Addresses.** Requests for faculty or staff members to give addresses to clubs, community organizations, and other groups may be responded to at the discretion of each individual faculty or staff member. Such activities shall not interfere with the faculty or staff member's University responsibilities.
- d. **Medical Faculty Consultations.** Full-time medical faculty may not engage in private practice or consultation work except in conformity with the School of Medicine Practice Plan or other policies approved by the president, upon recommendation by the Dean of the Medical School, subject to such conditions and limitations as the president may require. Such medical practice or consultation work must not interfere with the faculty member's primary responsibility to the University.
- e. **Consultation.** Consultation and other services to persons, firms, institutions, and agencies outside the University may be carried on by University Employees so long as the performance of such services does not interfere with the individual's obligations to the University, subject to the following restrictions:
 1. Faculty members are allowed to be compensated for outside professional or scholarly activities providing they comply with the Board of Regents' policy, Title 4, Chapter 3, Section 8 of the Board of Regents Handbook. Compensated outside professional service by faculty members is a legitimate activity unless specifically prohibited by the employee's contract with the University
 2. Use of consultation time should have a demonstrable relation to the professional interests of the faculty member or administrative officer, and to the University's general mission within the community.
 3. Consultation involving service to individual patients or clients may take place in a faculty or staff member's office. Other than limited use⁸ of University facilities and/or equipment for non-University supported purposes must comply with the University Policy on the Use of University Space and Equipment. When authorized by the Provost or the Provost's designee, use of University space or equipment shall be reimbursed on a full overhead basis. Intellectual property rights developed using significant University resources shall be negotiated with the University in accordance with the University's Intellectual Property Policy.

⁸ Limited use is defined by NRS 281 481, subsection 7 - - The use does not interfere with the performance of his public duties; the cost or value related to the use is nominal; and the use does not create the appearance of impropriety. Nominal use includes the use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or the use of telephones or other means of communication if there is not a special charge for that use.

4. The individual engaged in consultation activities must arrange in advance, with the approval of the responsible department chairperson, director, or other line officer, for scheduling of classes or other work assignments missed as the result of consultation activities.
 5. Individual exceptions to this policy may be approved by the cognizant vice president upon recommendation of the dean or director, subject to any specific conditions imposed by the President.
- f. **Responsibilities of Consultants.** University Employees engaged in consultation services have the following responsibilities:
1. The University Employee must advise, in writing, the person, firm, or agency for whom such consultation services are to be performed using language as specified in Sections i and ii below that
 - i. The Employee, in his/her role as a consultant, is acting solely as an independent contractor, and not as an agent or Employee, or under the sponsorship, auspices, or control of the University of Nevada, Reno; and
 - ii. The University assumes no responsibility whatever, express or implied, for the actions or omissions of the Employee in his/her role as a consultant.
 2. The University Employee must personally assure that the conditions and limitations upon external consulting activities, as required by University policy, are fully satisfied, and must be prepared to document that fact if called upon to do so by a responsible University officer.
 3. Before entering into a consultation contract, the University Employee must personally determine that the contemplated consultation activities and arrangements will not involve a Conflict of Interest with the individual's duties to the University that may be in violation of this policy. Such conflicts may be implicated if
 - i. The consultant is or will be serving concurrently as a principal investigator under a contract or grant from the same external firm or agency; or
 - ii. The consultant's services are directly related to and derived from activities performed under a contract or grant from the same external firm or agency, or from confidential information acquired as a result of participation in such a contract or grant; or
 - iii. The consultant agreement anticipates the use or development of intellectual property in the same field or scope of work that the consultant provides to the University as an Employee and/or the agreement contemplates assignment of rights to such intellectual property.

I. INSTITUTIONAL CONFLICT

1. The University must also avoid and/or manage Conflict of Interest positions where its beneficial relationship with corporate entities may place it in conflict with its responsibilities as a public institution.
2. **General Principles.**
 - a. The University will deal legally and ethically with external sponsors of research and sponsored programs in ways that avoid institutional conflicts of interest.
 - b. The University will not enter into agreements contrary to its mission.
 - c. The University will not accept an award for a project that is unacceptable to the principal investigator. Once an award is accepted by the University, all parties are expected to fulfill their obligations under that agreement.
 - d. The University will not enter into activities or agreements which could jeopardize its eligibility to receive federal or state funds.

3. Equity Interest in Corporations: Investment in Research.

- a. Of particular concern are research activities (the design, conduct, or reporting of research results) where the University of Nevada, Reno Foundation or Research Ventures, Inc has equity in a business or receive donations from a business sponsoring research. These situations may create conflicts, or the appearance of conflict, that compete with those of research Investigators or in the case of clinical research, of the research subject. Any financial relationship with a corporate sponsor should be documented, and include the following: equity interest or ownership, payments to the University or a unit of the University beyond payments directly associated with costs to carry out a particular protocol or scope of work, any funds or other items of value given to the University or a unit thereof, any percent ownership of patents, royalties, or licenses granted to the commercial sponsor by the University, and whether or not the University stands to gain financially if the study shows a positive outcome.
- b. Before entering into business agreements that may place the institution in a Conflict of Interest situation, the University shall ask the Conflict of Interest Committee to review and recommend strategies for management of the conflict. Similar reviews shall be made of all active previous business arrangements, and where conflicts are found, referred to the Conflict of Interest Committee for review. The process to reduce, manage or eliminate such research conflicts that the institution may have, will be handled by the Conflict of Interest Committee and managed similarly to an individual Conflict of Interest situation. The Conflict of Interest Committee that oversees institutional conflicts will include a minimum of two non-University affiliated individuals. Possible solutions may include special management to protect the scientific integrity of the study and in the case of clinical research management to assure the safety of research participants, or alternatively, having a clinical study performed at other sites.

4. Administrative Decision Making by Individuals Who have Personal Conflicts of Interest

- a. All University Employees participating in decision making related to the design, conduct or the reporting of research should be aware and comply with Conflict of Interest principles, including those stated above. This includes when they are involved in personnel decisions, overseeing compliance activities, assigning space, selecting purchasing contracts, and other issues in which their personal Financial Interests may be perceived to bias their decision making regarding the research activity.

J. CONFLICT OF INTEREST COMMITTEE AND DECISION MAKING

1. Conflicts of Interest Committee.

- a. The Conflicts of Interest Committee shall be a standing committee appointed by the President (the "Committee"). The Committee shall be chaired by a faculty member nominated by the Faculty Senate and approved by the President. The Chair shall serve a three year term. The Committee shall be comprised of 6 members including the Director of Sponsored Projects, the Director of Technology Transfer, the Director of the Human Research Protection Office, the Dean of the Graduate School and a community member not otherwise affiliated with the University. The Designated Official shall attend Committee Meetings to provide advice and direction, but is not a voting member of the Committee. If appropriate, based on the nature of the Conflict of Interest disclosure, the Committee may request the presence of the Director of Purchasing, the NSHE Office of General Counsel or other faculty members, deans, chairs and/or directors to assist in the committee process. In the event of an institutional Conflict of Interest, a minimum of two individuals who are not affiliated with the University shall serve on the committee. The Designated Official will present a list of community volunteers to the Committee and the Committee will select two members to serve for the evaluation of any institutional Conflict of Interest disclosures. All members on the committee, including invited members, have voting rights. A quorum consists of over half of all voting members. The Committee shall serve as an advisory body to the University administration on conflicts of interest issues, as provided in this policy.

- b. The Committee will review information provided by the Designated Official and will make determinations as to the proper level of management of conflicts.

2. **Conflicts of Interest in Decision Making.**

- a. A Committee member shall be recused from discussion of a particular case if:
 1. The Committee member has a personal interest because of inter-departmental relationships, such as collaboration with the faculty member whose case is under consideration; or
 2. The Committee member has a personal financial interest in the case under discussion..

K. PROCEDURES

1. Any instance of Conflict of Interest must be disclosed, and reduced, managed or eliminated depending on the type and degree of conflict. It is the responsibility of each Employee to disclose possible individual conflicts for review. It is the responsibility of the University to evaluate and require the Employee to manage, reduce or eliminate the conflicts. A monitoring plan will be established for every instance of Conflict of Interest using Federal funds and private/corporate funds from a business entity as determined by the Conflict of Interest Committee.
 - a. **Disclosure.** This policy uses disclosure as the key mechanism to bring potential conflicts of interest to light for further evaluation, and for oversight, where necessary.
 1. Annual Disclosure. All Faculty and Key Personnel⁹ shall fill out an Annual Summary of Outside Activities and Interests Form regarding the Employee's, the Employee's Household or Family, and other Household or Family Members where the Employee knows or should know of Significant Financial Interests that may pose a Potential Conflict of Interest. This disclosure shall be submitted as part of the Employee's Annual employment evaluation. The Annual Summary of Outside Activities and Interests Form shall be submitted to department chairs or directors who will keep all negative disclosures in the employee's personnel file and forward a copy of all positive disclosures in their unit to the Designated Official.
 2. Project Based Disclosure. If a Conflict arises during the year that was not disclosed on the annual disclosure form due to a specific project, study, or technology proposal, protocol or intellectual property disclosure that might be perceived as being in conflict with external activities of the employee, the employee shall submit a Conflict Evaluation Form directly to the Designated Official or to the Office of Sponsored Projects, Graduate School, Controller's office or Technology Transfer office as appropriate on a project by project basis. All Project Disclosures shall be routed to the Designated Official for review. The Principal Investigator shall indicate on a Sponsored Projects transmittal form if there are any Faculty or other Employees included in a proposal submission with a potential Conflict of Interest. The Principal Investigator shall insure that any Employee with a potential conflict fills out and submits a Conflict Evaluation Form. If a new Conflict of Interest arises during the life of a project, a new Conflict Evaluation Form must be submitted within 10 business days to the Principal Investigator for forwarding to the appropriate administrative office.
 3. Confidentiality and Reporting of Conflicts of Interest. All records and information provided by an Employee for the purpose of disclosure and management and all official records of disclosure and management shall be considered confidential. Any information disclosed by an Employee as required by this policy shall be used solely for the purpose of administering this policy and may not be used for any other purpose unless required by law. Unauthorized disclosure of any such information by an Employee shall be deemed to be unethical behavior and shall be subject to disciplined pursuant to appropriate procedures. Board of Regents

⁹ The chair/director of each University department may identify Employees whose positions do not require the completion of an Annual Disclosure Form.

- Policy requires that the University submit an annual report of outside compensated professional or scholarly service that has been approved by the University. The report will include aggregate data regarding positive disclosures reviewed and approved under this policy. An employee may be required to publicly disclose elements of a potential conflict of interest in his or her publications and/or presentations if appropriate, applicable and required by the Conflict of Interest Committee as part of a reasonable and appropriate management plan.
- b. **Review.** Annual disclosures submitted to Department chairs and directors and project based disclosures which identify a potential Conflict of Interest will be forwarded to the Designated Official who, will review the disclosures, gather more details if necessary and forward the information for consideration to the Conflict of Interest Committee. To the extent that disclosures include procurement issues, the Designated Official shall also forward the disclosures to the Director of Purchasing or include the Director of Purchasing as an ad-hoc member of the Conflict of Interest Committee for review of such disclosures. The Committee will review the file and make a determination that the potential conflict does not require oversight, recommend a strategy for management and oversight of the potential conflict, or recommend that the activity should not proceed. The final determination of the Committee shall be provided, in writing, to the disclosing Employee and, if appropriate, to the Employee's supervisor, chair, dean, or director. The Management, Monitoring and Implementation plan and a statement of the University's best interest regarding the disclosed conflict will be forwarded to the President for final signature and approval.
 - c. **Management and Oversight.** The Conflict of Interest Committee will consider potential conflicts of interest and determine whether to Manage, Reduce or Eliminate the conflict. The Committee, in consultation with the University Employee ultimately responsible for the proposed research or activity, will develop a Management, Monitoring and Implementation Plan (the "Plan"). The Plan is subject to approval by the Designated Official. The Department Chair or Director of the Employee with a potential Conflict of Interest will be responsible for providing process and oversight for implementation of the Plan. All identified Conflicts of Interest must be handled by one of the following three approaches:
 1. A conflict can be MANAGED if the conflict does not seem to be of such a degree that the research or activity as proposed would be compromised in regards to academic freedom, integrity or objectivity; or
 2. The conflict must be REDUCED if there is a serious possibility that the research or other activity as proposed would be compromised or a serious concern that there could be a conflict with University policies.; or
 3. The conflict must be ELIMINATED if the research or activity as proposed would be compromised by the conflict. If the conflict cannot be eliminated, the Employee shall eliminate the conflict by either divesting him/herself from all external financial interests or by not proceeding with the research or activity.
 - d. **Coordination with other Offices.** The Designated Official shall maintain a database of all University personnel that provides information regarding when each individual submitted a Financial Disclosure and the status of any Conflicts of Interests that have been identified. This data base will be accessible to the Office of Sponsored Programs Administration, the Human Research Protection Office, and the Office of Technology Transfer
 - e. **Appeals.** Appeals to any determination made by the Designated Official and/or the Conflict of Interest Committee shall be made to the Vice President for Research (for research matters) or to the Provost for all other matters. The decision of the Vice President for Research or Provost on the appeal may be appealed to the President of the University. The decision made on this appeal is final. In conflict matters involving a Vice President, appeals shall be made to the President and his/her decision on the appeal shall be final. Institutional Conflict of Interest appeals should be addressed to the Executive Vice Chancellor for review and final decision.

- f. **Reporting.** Procedures for internal and external reporting will be implemented by the Designated Official.
1. **Internal Reporting.**
 - i. Annual Monitoring Plan reports, and any violations, will be submitted by the Department Chair and Directors to the Designated Official, who will present them to the Conflict of Interest Committee, and to the cognizant Vice Presidents as appropriate.
 - ii. For proposals that may restrict disclosure or publication of students' work that constitutes a degree requirement or that will be the basis of evaluation of a student (see Section E.1.b.1), initial disclosure shall also be routed to the Graduate School, who will make an initial recommendation to the Conflict of Interest Committee, and the Vice President for Students Services or other appropriate officials.
 2. **External Reporting.**
 - i. The Public Health Service ("PHS") requires that the University certify to the PHS awarding component that action has been taken, prior to the institution's expenditure of any funds, to manage, reduce or eliminate any Conflict of Interest.¹⁰ The University must specify the process that it will undertake to manage, reduce, or eliminate the Conflict of Interest.
 - ii. The National Science Foundation requires that the University report any conflicts of interest that cannot be, or have not been, satisfactorily managed, reduced or eliminated. It is anticipated that other Federal agencies shall require similar practices in the future. These requirements will be incorporated into this policy as requirements are imposed upon the University.

L. VIOLATIONS AND SANCTIONS

1. Reporting and Investigating.

- a. The Designated Official will forward any reports of violations to the Conflict of Interest Committee and to the Sponsoring Agency when specified by the agency policy, or contract or grant requirements. The Committee will then forward a recommendation to the Vice President for Research or other appropriate Vice President or the Provost as applicable. The cognizant Vice President or Provost shall coordinate the investigation of any violation with any sponsor who requires such investigation.
- b. The cognizant Vice President or the Provost shall have the authority as appropriate to determine resolution and discipline in accordance with NSHE Code or Nevada Administrative Code for the reported violations. The Vice President for Research shall coordinate the investigation of any violation with any sponsor who requires such investigation.

2. Discipline.

- a. Violation of this University policy may result in discipline, including suspension and dismissal as provided under any of the following University policies:
 1. NSHE Code Chapter 6; and
 2. Nevada Administrative Code.
- b. Compliance with this policy may also be enforced through the exercise of administrative responsibility for oversight of funded research and management of University facilities and other University property. Such enforcement measures shall include, but shall not be limited to:

¹⁰ PHS requires the University to certify that it will manage, reduce, or eliminate any new conflict of interest, at least on an interim measure, within 60 days from the time that the conflict is identified.

1. Freezing research funds or accounts;
 2. Rescinding contracts entered in violation of this policy or state law; and/or
 3. Bringing legal action to recover the amount of financial benefit received by an Employee as a result of the Employee's violation of this policy.
- c. Violations of this Policy may also result in civil and criminal penalties pursuant to the Nevada Ethics in Government Law NRS Chapter 281 et seq. and may include prosecution for a felony.
- d. The remedies provided or referenced above are cumulative and shall be deemed to include any other remedies required or provided by applicable state or federal law.

M. FORCE OF LAW

1. This policy shall be deemed to include all requirements relating to conflicts of interest to which the University and University Employees are subject under state or federal law.

N. REVISIONS

1. Revisions may be made to this policy when otherwise appropriate or necessary and shall be submitted to the Administrative Manual Committee for review and approval and then submitted to the President for approval.

O. REFERENCES

1. Administrative Manual Policies and Procedures Section 1,505 — Conflict of Interest Prohibited.
2. Administrative Manual Policies and Procedures Section 1,525 — Personal Use of University Property or Resources.
3. Administrative Manual Policies and Procedures Section 2,370 to 2,373 — Disciplinary Actions and Dismissal of Staff Employees.
4. Administrative Manual Policies and Procedures Section 2,690 — Consulting Services and Conflict of Interest.
5. Administrative Manual Policies and Procedures Section 4,320 — Appropriate Use of Computer Facilities.
6. Administrative Manual Policies and Procedures Section 5,302 to 5,304 — Policy for Use of University Space.
7. Administrative Manual Policies and Procedures Section 5,400 — Use and Security of Property.
8. Administrative Manual Policies and Procedures Section 6,503 and 6,507 — Patent and Copyright Policy: Ownership Purpose and Scope.
9. Administrative Manual Policies and Procedures Section 6,510 — Use of Human Subjects.
10. Administrative Manual Policies and Procedures Section 6,515 — Ethical Standards in Conduct of Research.
11. Anti-Kickback Act of 1986 (41 U.S.C. 51-58) and OMB A-110.
12. National Science Foundation Policy, Grant Policy Manual 510, Investigator Disclosure Policy, 60 F.R.132, pp. 35810-823 (July 11, 1995).
13. Nevada Administrative Code Chapter 284.
14. Nevada Criminal Code.
15. Nevada Public Officers' and Employees' Ethics Act, NRS. 281.
16. Nevada Revised Statutes 281.481 – 281.581.

17. NSHE Business Office North Purchasing Policy.
18. NSHE Code Chapter 6 — Rules and Disciplinary Procedures for Members of the University Community.
19. NSHE Purchasing Code — Restricted Purchases and Special Procurement.
20. NSHE Purchasing Code — Procurement from Vendor, University Employee with Interest.
21. NSHE Regents Handbook Title 4.1.11 — Personal Use of University Property or Resources.
22. NSHE Regents Handbook Title 4 Chapter 3 Section 8 – Compensated Outside Professional Services.
23. UNR Additional Compensation and Overload Policy (“LOA” contracts).
24. U.S. Department of Health and Human Services, Objectivity in Research Subpart F — Responsibility of Applicants for Promoting Objectivity in Research for Which Funding is Sought, 42 CFR Part 50, Subpart F.