

**UNIVERSITY of NORTH DAKOTA**  
**RESEARCH & ECONOMIC DEVELOPMENT POLICY LIBRARY**

**CONFLICT OF INTEREST**

Section 1, Research  
Policy 8, Conflict of Interest  
Responsible Executive: VP for Research & Economic Development  
Responsible Office: VP for Research & Economic Development  
Issued: May 22, 2014  
Latest Review / Revision: May 22, 2014



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**POLICY STATEMENT**

Outside activities advance and communicate knowledge through interaction with government, industry, the community, and the public. This policy establishes a University policy for implementing State Board of Higher Education (SBHE) personnel policies regarding financial and resource conflict of interest and outside employment or service. This policy will allow faculty, staff and students at the University to identify and manage any conflicts between their interests and the interests of the University. For ethical conduct issues, see the Ethical Conduct in Research, Scholarship, and Creative Activity Policy.

This policy provides a guiding framework for all Employees for the identification, disclosure, management, and monitoring of non-University activities that is in accordance with federal regulations, state law, SBHE policies, and University policies. This document defines the nature of conflicts of interest, provides principles that guide identification and disclosure of such conflicts, identifies the responsibilities of all parties involved, defines disclosure procedures, and provides a structure for enforcement.

As a service to the University community, and in a manner consistent with the University's obligations under state and federal law and SBHE policies, the University will make appropriate training in Conflict of Interest available to Employees on a regular basis. Employees should be aware that documented completion of such training may be a prerequisite for application, award and use of certain funding.

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**REASON FOR POLICY**

A policy is necessary to comply with federal requirements.

**GUIDING PRINCIPLES**

Eight principles guide the identification, disclosure, review, and management of real or potential conflicts of interest. The principles are not intended as a set of rigid rules, rather they represent an attempt to define a set of parameters by which conflict of interest situations can be managed.

**Principle 1: Commitment to the University**

All employees are expected to fulfill their professional commitment to the University in good faith.

**Principle 2: Honesty in Disclosure and Management**

All employees are expected to provide honest, thorough, and thoughtful disclosure and management of any conflict of interest.

**Principle 3: Equitable Review and Management**

The University strives toward equitable review and management of non-University activities and commitments of all Employees, balancing the interests of the University with the interests of the individual Employee, while maintaining the integrity of both. To this end, the University is expected to provide a fair and unbiased review of conflict of interest disclosures and a means of collaborative management of conflicts.

**Principle 4: Confidentiality**

The University is subject to the North Dakota Open Records Law; however, to the extent allowed by state and federal law, the University will maintain a commitment of confidentiality in conflict of interest disclosures.

**Principle 5: Integrity in Scholarly Behavior**

Non-University commitments and activities must not compromise scholarly integrity.

**Principle 6: Preserving the Reputation and Best Interests of the University**

The University respects and upholds the principles of Academic Freedom. Non-University commitments and activities must not undermine, compromise, or misrepresent the scholarly mission, reputation, and/or best interest of the University. It is the responsibility of the Employee to inform external entities of these obligations.

**Principle 7: Appropriate Use of University Resources**

The University must be adequately compensated for the significant use of University facilities, supplies, equipment, or personnel for non-University commitments and activities. If an Employee wishes to make significant use of University resources for non-University commitments, the Employee must obtain prior written permission from the Executive Head of the Unit for such use.

**Principle 8: Public Health Service (PHS) Specific Provisions**

The disclosure of certain financial interests and activities as specifically indicated in this policy will be limited to faculty and key personnel applying for and obtaining funding from units of the United States Public Health Service.

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**SCOPE OF POLICY**

This policy applies to all members of the University community and should be read by:

- ✓ President
- ✓ Vice Presidents
- ✓ Deans, Directors & Department Chairs
- ✓ Faculty
- ✓ Staff
- ✓ Students

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## RELATED INFORMATION

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| Financial Conflict of Interest | NIH- <a href="http://grants.nih.gov/grants/policy/coi/">http://grants.nih.gov/grants/policy/coi/</a>                             |
| Financial Conflict of Interest | NSF- <a href="http://www.nsf.gov/pubs/manuals/gpm05_131/gpm5.jsp#510">http://www.nsf.gov/pubs/manuals/gpm05_131/gpm5.jsp#510</a> |

NIH and NSF are examples, but each agency is expected to have its own Conflict of Interest Policy.

## CONTACTS

General questions about this policy can be answered by your department's administrative office. Specific questions should be directed to the following:

| Subject                          | Contact                             | Telephone | E-Mail / Web Address  |
|----------------------------------|-------------------------------------|-----------|---|
| Policy Content and Clarification | Research Development and Compliance | 777-4278  | <a href="http://und.edu/research/resources/index/">http://und.edu/research/resources/index/</a> |

## DEFINITIONS

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| <b>Appropriate Vice President</b>   |  |
| The Appropriate Vice President generally is the University official holding a position of Vice President who has administrative authority for the unit for which an Employee works the majority of the time. In all situations where an Employee is compensated from or has spending authority over funds derived from extramural funding, the Appropriate Vice President will be the Vice President for Research and Economic Development.   |  |
| <b>Conflict of Interest</b>   |  |
| A Conflict of Interest occurs when an Employee is involved in an activity, commitment, or interest that could adversely affect, compromise, or be incompatible with the obligations of the Employee to the University. A Conflict of Interest can involve conflicts of time commitment, research integrity, financial interest, use of university resources, or discipline-specific interests.  |  |
| <ol style="list-style-type: none"> <li>1. A <i>conflict of time commitment</i> occurs when an Employee is involved in and committed to unauthorized non-university activities that interfere with obligations to students, colleagues, and the primary mission of the University.</li> <li>2. A <i>conflict of research integrity</i> occurs when an Employee has an obligation to an external entity that is in conflict with the Employee's research obligations to the University, or that restricts or impairs the Employee's ability to perform research or other activities at the University. For more details, see the document: Ethical Conduct in Research, Scholarship and Creative Activity in the UND Faculty Handbook.</li> <li>3. A <i>conflict of financial interest</i> occurs when an Employee influences the University in such a way as to lead to a significant direct or indirect financial gain for the Employee or any member of the Employee's close family (spouse and/or dependent children).</li> <li>4. A <i>conflict in the use of university resources</i> occurs when an Employee uses university resources in the unauthorized conduct of non-University activities such that a reasonable person could conclude that the activity is undertaken by the Employee in an official University capacity, or that the activity has University sponsorship or authorization.</li> <li>5. A <i>conflict of discipline-specific interests</i> occurs when the nature of the Employee's discipline, department or Employee obligations could cause situations that, while not implicating one of the conflicts listed above, could cause risk to the University. The Executive Head of the Unit is expected to provide written guidance to Employees regarding these situations and the Employees' obligations to disclose them.</li> </ol> |  |
| <b>Conflict of Interest Committee</b>   |  |
| The Conflict of Interest/Scientific Misconduct Committee ("Conflict of Interest Committee") is charged by the University Senate to develop and implement the Conflict of Interest policy. Its membership, responsibilities and functions will be determined by the University Senate. Administrative services will be provided by the office of   |  |

the Vice President for Research and Economic Development. The Conflict of Interest Committee will serve in an advisory capacity to the Appropriate Vice Presidents or their designees regarding conflict of interest issues, as defined in this Conflict of Interest Policy.

**Committee of Investigation**

Three-member panel used in an appeal.

**Disclosable Interest**

Employees have numerous interests, only some of which could result in a Conflict of Interest. The intent of this Conflict of Interest Policy is to identify Employee interests that could conflict with the interests of the University and to manage those conflicts whenever possible. The University is not interested in collecting confidential or personal information that is not necessary for the identification and management of Conflicts of Interests. The general rule is that each Employee must disclose anything that could reasonably be interpreted as creating a Conflict of Interest. Some interests must be disclosed regardless of whether an Employee believes that such interest could reasonably be interpreted as creating a Conflict of Interest. These interests are listed below.

1. If an Employee *a*) can influence or approve purchase of goods or services worth more than **\$10,000** per year in his/her university role, or *b*) is responsible for the design, conduct, or reporting of research supported by federal agencies, then the Employee must disclose any significant financial interest in a non-University entity.
2. An Employee who is a member of the faculty must disclose outside, compensated or voluntary, professional/commercial activities, including consulting or management of an outside business, if he/she spent more than 20% of his or her total work effort on such activity during the immediate past contract period or expects to do so during the next contract period. *See consulting practices in the Faculty Handbook, III-5.2.* All other full time Employees must disclose any outside, compensated or voluntary, professional/commercial activities, including consulting for an outside business, if he/she has or expects to spend any effort on such activity during normal work hours at the University.
3. An Employee must disclose the use of significant University resources (including faculty, students, support staff, facilities, equipment, or confidential information) in carrying out any outside, compensated or voluntary, professional/commercial activities.
4. An Employee must disclose service as principal or co-principal investigator for sponsored projects submitted and managed through other academic, federal, or commercial institutions, excluding subcontracts awarded to the University of North Dakota and/or multi-site training or research projects.
5. An Employee must disclose service as a manager of an outside business activity in his/her professional field.
6. An Employee must disclose use of University resources to create, discover, or reduce to practice, patentable inventions which have not been disclosed to the University.

**Employees**

Employees, for the purposes of this Conflict of Interest policy only, are all persons who are participating in official University-sponsored activities on a full-time, part-time, or contract basis. It also includes graduate students who hold research, service, or teaching appointments.

**Executive Head of a Unit**

The Executive Head of a Unit means a Dean or his/her designee for an academic unit and Director or Unit Head or his/her designee for a non-academic unit. If a conflict exists for the Executive Head of the Unit, the matter will be referred to the next level of administrative authority in the normal reporting lines.

**Fiscal Year**

The University's fiscal year is July 1<sup>st</sup> through June 30<sup>th</sup>.

**Inquiry**

Inquiry means information gathering and fact-finding to determine whether a Conflict of Interest exists when a Report of Potential Conflict has been made.

**Non-Publicly Traded Entity**

A "privately held company" in which the entity is owned by private investors where there are no requirements to disclose financial information since they do not trade stock on an open stock exchange or over-the-counter.

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| <b>Office of Record</b>  |  |
| <p>The Office of Record is the office of the Vice President for Research and Economic Development. In addition to all documents required to be sent to the Office of Record by this Conflict of Interest Policy, the Office of Record will house the minutes and any other documents produced by the Conflict of Interest Committee, except the annual report. The Office of Record will retain all documents forwarded to it under this Conflict of Interest Policy for a period consistent with the University's records retention schedule.</p>   |  |
| <b>Publicly Traded Entity</b>  |  |
| <p>A company issuing stocks, which are traded on the open market either on a stock exchange or on the over-the-counter market, and is usually subject to Securities and Exchange Commission filing and reporting requirements.</p>   |  |
| <b>Report of Potential Conflict</b>  |  |
| <p>A Report of Potential Conflict is the written information delivered to an Appropriate Vice President indicating that an Employee may have a Conflict of Interest.</p>   |  |
| <b>Significant Financial Interest</b>  |  |
| <p>The term <i>significant financial interest</i> means anything of monetary value, including, but not limited to: salary or other payments for services (e.g., consulting fees, honoraria); equity interests (e.g., stocks, stock options, patents, copyrights, other ownership interests); and non-University royalties from intellectual property rights (e.g., patents, copyrights, trade secrets, and trademarks).</p> <p>The term does NOT include:</p> <ol style="list-style-type: none"> <li>a) Any salary, royalties or other remuneration paid by the University to the Employee and the Employee's spouse and/or dependent children;</li> <li>b) An interest in any <b>publicly traded entity</b> with a value of <b>\$5,000</b> or less. The value of the interests is determined by aggregating the value of any remuneration received by the Employee, the Employee's spouse, and dependent children from the entity in the twelve months preceding disclosure with the value of any equity interest in the entity. In other words, if the combination of the remuneration you receive from the entity and the value of any interest you own in the entity exceeds <b>\$5,000</b>, you must disclose it. Any equity interest held by the Employee, the Employee's spouse, and dependent children through an investment vehicle such as a mutual fund or retirement account will not be considered an equity interest for purposes of this section unless the Employee, the Employee's spouse, and dependent children controls investments decisions by the investment vehicle;</li> <li>c) With regard to any <b>non-publicly traded entity</b>: remuneration received by the Employee, the Employee's spouse, and dependent children during the twelve months preceding the disclosure in excess of <b>\$5,000</b>; or the ownership of any equity interest in the entity. In other words, if the remuneration you receive from the entity exceeds <b>\$5,000</b> or you own any interest in the entity, regardless of whether it has any value, you must disclose it;</li> <li>d) The ownership of any intellectual property rights and interests (e.g., patents and copyrights), but only so long as the Employee, the Employee's spouse, and dependent children has not received any income related to such rights and interests or if the Employee has assigned any ownership interest in those rights and interests to the University. In other words if you have received any payment because you own intellectual property, you must disclose it;</li> <li>e) <b>Limited to PHS awardees</b> : Any reimbursed or sponsored travel, but only if the travel is sponsored or reimbursed by a federal, state or local government, an institution of higher education, an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education. In other words, if any other entity or organization covered your expenses for travel, you must disclose it;</li> <li>f) <b>Limited to PHS awardees</b>: Any income from seminars, lectures, or teaching engagements sponsored by a federal, state or local government agency, an institution of higher learning, an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education. In other words, if any other entity or organization paid you to deliver a seminar, lecture or teach, you must disclose it;</li> <li>g) <b>Limited to PHS awardees</b>: Any income from service on advisory panels for a federal, state or local government agency, an institution of higher learning, an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education. In other words, if any other type of entity or organization paid you to serve on an advisory panel, you must disclose it;</li> </ol> |  |

- h) Salary, royalties or other payments made to the Employee's spouse and/or dependent children, from entities that do not do business with the University;
  - i) Salary, royalties or other payments from entities that do business with the University that, when aggregated for the Employee and the Employee's spouse and/or dependent children over the next twelve months, are not expected to exceed **\$5,000**.
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## MANAGEMENT, ENFORCEMENT AND EMPLOYMENT CONDITIONS

### 1. Management.

- 1.1. If a Memorandum of Understanding is signed by the University and the Employee, the Executive Head of the Unit will determine an appropriate method to monitor the situation to ensure compliance with the Memorandum of Understanding.
- 1.2. The University of North Dakota will maintain records of all financial disclosures and of all actions taken to resolve conflicts of interest for ten years after: the termination of the award, completion of the award, or the resolution of any government action involving those records.

### 1.3. Additional requirements for PHS applicants and awardees:

If the Conflict of Interest involves an Employee who is compensated from or has spending authority over funds derived from extramural funding, prior to expending any funds, and if required to do so by funding agency policy, the Vice President for Research and Economic Development or his/her designee will notify the funding agency of the existence of the Conflict of Interest and provide written assurance that the Conflict of Interest is being managed, reduced, or eliminated in accordance with agency requirements.

In addition to its general obligations under State open records law, the Vice-President for Research and Economic Development shall maintain and make available within a reasonable period of time not to exceed five working days to anyone who requests it, information concerning any Disclosable Interest described in the definition section in the Conflict of Interest Policy if: *a*) the Disclosable Interest is still held by the Employee and *b*) the University has determined under the Conflict of Interest policy that the Disclosable Interest was a Conflict of Interest, whether or not that Conflict of Interest is manageable. At a minimum, the information made available to the person who requests it will include: 1) the Employee's name; 2) the Employee's title and role within any research projects currently receiving extramural funding; 3) the name of any entity associated with the Disclosable Interest; 4) the nature of the Disclosable Interest and 5) the approximate value of the Disclosable Interest or a statement that the Disclosable Interest is not one that can be readily valued through reference to public prices or other reasonable measures of fair market value.

### 2. Enforcement

The Appropriate Vice President or his/her designee is responsible for:

- 2.1. Ensuring that Executive Heads of all units obtain annual Conflict of Interest documentation from each Employee,
- 2.2. Enforcing compliance with this Conflict of Interest Policy, and
- 2.3. Providing the Purchasing Office, on a monthly basis, with lists of those Employees who, under a Memorandum of Understanding, have limits placed on their ability to direct the expenditure of University funds and those Employees who have failed to file their annual Conflict of Interest documentation.

3. Employment Conditions

Each Employee must comply with the terms of any Memorandum of Understanding entered into between the University and the Employee and/or by the terms of any final decision. Any Employee who does not comply may be subject to employment conditions including, but not limited to:

- 3.1. Administrative supervision of funded research,
- 3.2. Completion of supplementary training in conflicts of interest,
- 3.3. Administrative supervision of the use of University facilities and properties,
- 3.4. Freeze or loss of research funds or accounts,
- 3.5. Loss of privileges in the use of University facilities and property,
- 3.6. Rescission of contracts with entities or Employees,
- 3.7. Criminal or civil legal action, and
- 3.8. Termination of employment.

***The following provisions are procedures amendable by the Office of Record or the Conflict of Interest/Scientific Misconduct Committee as appropriate. Amendments to procedures do not require University Senate approval. However, the Office of Record shall inform the Conflict of Interest/Scientific Misconduct Committee of changes needed or made; and the Conflict of Interest/Scientific Misconduct Committee shall inform the University Senate of amendments to these procedures in a timely fashion.***

## PROCEDURES

### 1. Procedures for Voluntary Disclosure of Potential Conflicts of Interest

The Conflict of Interest policy uses disclosure as the key mechanism to identify potential Conflicts of Interest, to evaluate them, and to manage or eliminate them. Conflicts of Interest span a wide spectrum, from those that can be easily managed to those that have such a serious impact that they cannot be permitted. A Conflict of Interest, real or potential, will not necessarily preclude a particular activity.

#### 1.1. Persons Required to Report

1.1.1. Employees are required to report all Disclosable Interests within 30 days of employment and annually before September 15.

1.1.2. If the Employee's financial/business interests and/or time commitments materially change during the year, Forms 1, 2, and 3 must be revised within 30 days of the change.

1.1.3. Principal Investigators must assure that personnel listed in a proposal or potential contract have filed appropriate documentation as described in Section 1.2 prior to submitting the proposal or potential contract to the Vice President for Research and Economic Development.

#### 1.2. Documentation (Forms 1-3 are attached)

##### 1.2.1. All University Employees

1. Annually, all Employees must file with the University of North Dakota, a Disclosable Interests Document (Form 1). If any Employee declares a significant financial interest on Form 1, a Description of Financial Interest Activity (Form 2) must be completed and submitted to the Executive Head of the Unit. Principal Investigators submitting an external grant proposal must have a current Certification of Filing of Disclosure Document (Form 3) on file with the Office of the Vice President for Research and Economic Development. Notwithstanding the foregoing, an Executive Head of a Unit may waive the requirement to file the documents listed above for Employees who are volunteers or who work part-time. The Executive Head of the Unit will notify the Appropriate Vice President of the identity of any person for whom a waiver was granted.
2. Notwithstanding the above, on an annual basis, graduate students who do not submit external grant proposals as principal investigators and facilities and dining services personnel in the 6000 and 7000 bands (information concerning the broadbanding classification of personnel is available from the Office of Human Resources), excluding those in lead or supervisor positions, will be notified separately of the Conflict of Interest policy and its requirements. If any graduate student or person in the 6000 and 7000 bands believes that he or she has a Conflict of Interest, he or she must file with the Executive Head of the Unit, a Disclosable Interests Document (Form 1) and a Description of Financial Interest Activity (Form 2).

### 1.3. Principal Investigators (PI)

1. Funding proposals will not be submitted until all Conflict of Interest issues have been resolved and documented. Therefore, it is incumbent on the investigator to have the appropriate documentation and approval(s) prior to submission of a proposal for University review.
2. If the Employee's financial/business interests and/or time commitments materially change during the year such that it affects the design, conduct, or reporting of the research or educational activities of a proposal, the appropriate forms must be revised within 30 days of the change.

3. **Additional requirements for PHS applicants and awardees:**

For PHS proposals that contain subcontracts, the PI will have to submit documentation indicating whether the investigators working on the subcontract will be following the UND Conflict of Interest policy on conflict of financial interest or the investigators institution's policy. In the former case, the PI will need appropriate documentation from all key personnel. In the latter case, the PI will need to supply documentation signed by an authorized representative of the subcontractor's institution indicating that the institution has a PHS compatible conflict of interest policy which is followed by the institution.

Principal Investigators must also assure that all key personnel listed in a proposal or potential contract have filed appropriate documentation as described in Section 1 of these procedures.

Principal Investigators must provide evidence of completion of the education model.

### 1.4. Evaluation

- 1.4.1. The Executive Heads of Units (see Conflict of Interest Policy-Definitions) have the responsibility to evaluate all documentation provided by Employees in the unit, and to document, and manage all Conflicts of Interest.
- 1.4.2. The Employee has the responsibility to respond to inquiries from the University in connection with any report.
- 1.4.3. The Executive Head of the Unit will review all relevant forms and complete Section III of the Disclosable Interests Document (Form 1). The review has two possible designated outcomes:

1. No Conflict of Interest exists.

When the Executive Head of the Unit determines that no Conflict of Interest exists, no further review of the documentation is required. All completed and signed original documents will be forwarded to the Office of Record.

2. A Conflict of Interest may exist.

When the Executive Head of the Unit determines that a Conflict of Interest may exist, he/she will draft a brief summary of what led to that conclusion. The summary must include suggested terms for a memorandum of understanding for managing the conflict. All completed and signed original documents completed forms will then be forwarded to the Appropriate Vice President or his/her designee for further review.

- 1.4.4. The Appropriate Vice President or his/her designee has the responsibility to evaluate and render a decision regarding all potential Conflict of Interest cases that have been forwarded to him/her. The

Appropriate Vice President or his/her designee may consult outside experts before reaching a decision. The Appropriate Vice President or his/her designee will review all relevant forms and complete Section IV of the Disclosable Interests Document (Form 1). The evaluation has three possible designated outcomes:

1. No Conflict of Interest exists.

If the Appropriate Vice President or his/her designee determines that no Conflict of Interest exists, no further review of the documentation is required. The Appropriate Vice President will draft a memorandum outlining the rationale for the determination, a copy of which will be sent to the Employee and the Executive Head of the Unit.

2. A Conflict of Interest exists, but the risk to the University can be managed.

If the Appropriate Vice President or his/her designee determines that a Conflict of Interest exists, but that any risk to the University can be managed, the Appropriate Vice President or his/her designee, in consultation with the Employee and the Executive Head of the Unit, will produce a Memorandum of Understanding to be signed by the University and Employee that details the manner in which the Conflict of Interest will be managed.

3. A significant Conflict of Interest exists and the risk to the University cannot be managed.

If the Appropriate Vice President or his/her designee determines that a Conflict of Interest exists and that the risk to the University cannot be managed, the Appropriate Vice President or his/her designee, in consultation with the Employee and the Executive Head of the Unit, will produce a Memorandum of Understanding to be signed by the University and Employee that details the manner in which the Conflict of Interest will be eliminated.

Upon completion of the review, the signed originals of all documents will be forwarded to the Office of Record and copies will be sent to the Executive Head of the Unit and Employee. If a Memorandum of Understanding is required, after consultation with the Employee and the Executive Head of the Unit, the Appropriate Vice President or his/her designee will draft the document and forward it to the Executive Head of the Unit and Employee for signatures. The signed original Memorandum of Understanding will be forwarded to the Office of Record and a copy will be sent to the Executive Head of the Unit and employee. If the Employee does not appeal the decision of the Appropriate Vice President, such decision will be final.

#### 1.5. Conflicts of Interest Involving Administrators

1.5.1. In actual or potential Conflicts of Interest involving administrators at the level of Dean, Director, or higher, annual disclosure documentation will be delivered to the Appropriate Vice President or his/her designee, who will make a recommendation consistent with the Conflict of Interest policy. Appeals will be handled as provided in Section 3 of these procedures. If the administrator does not appeal the decision of the Appropriate Vice President, such decision will be final.

1.5.2. In actual or potential conflicts of interest involving administrators at the level of Vice President, disclosures will be reviewed by the President, who will evaluate the disclosure for possible Conflict of Interest.

Following review, the signed original will be forwarded to the Office of Record and the Administrator will be notified of the decision in writing. If a Memorandum of Understanding is required, the Appropriate Vice President or his/her designee (or, in cases involving Vice Presidents, the President) will draft the document and forward it to the Administrator for his/her signature. The signed original Memorandum of Understanding will be forwarded to the Office of Record and a copy sent to the Administrator.

2. Procedures for Discovered Potential Conflicts of Interest.

2.1. Report of Potential Conflict.

Any person with information regarding a potential Conflict of Interest involving an Employee may make a Report of Potential Conflict, in writing, to the Appropriate Vice President for the Employee. A Report of Potential Conflict may also be submitted via any system operated by the University or the State of North Dakota for whistle blowers. If the person does not know the identity of the Appropriate Vice President, then the information may be delivered to any Vice President, who will determine the identity of and deliver the information to the Appropriate Vice President.

2.2. Pre-Inquiry Review by the Appropriate Vice President.

The Appropriate Vice President or his/her designee will review any Report of Potential Conflict to determine whether:

- 2.2.1. The potential Conflict of Interest is within the purview of this Conflict of Interest Policy;
- 2.2.2. The Employee has previously disclosed the information contained in the Report of Potential Conflict under the procedures contained in Section 1 of these procedures;
- 2.2.3. Other policies and procedures, such as those relevant to employment grievances, should be invoked;
- 2.2.4. The allegation is outside the purview of the University;
- 2.2.5. The allegation is clearly without substance.

If an Inquiry is determined to be unwarranted, the Appropriate Vice President or his/her designee will prepare an internal memorandum-for-file including a statement of the allegation and the rationale for not conducting an inquiry. This memorandum will be forwarded to the Office of Record. A copy will be given to the Employee who is the subject of the Report of Potential Conflict.

If, during the Pre-Inquiry Review, the Employee makes a voluntary disclosure of the potential Conflict of Interest as provided in Section 1 of these procedures, the Appropriate Vice President may terminate the Pre-Inquiry Review and the potential Conflict of Interest will be assessed using the procedures in Section 1 of these procedures.

If the Appropriate Vice President or his/her designee determines that an Inquiry is warranted, the Inquiry process will be initiated. The Appropriate Vice President may consider the failure of the Employee to voluntarily disclose the potential Conflict of Interest in determining whether to assess the Potential Conflict of Interest using the process in Section 2.3 of these procedures.

2.3. Inquiry Process.

2.3.1. Purpose.

After review by the Appropriate Vice President or his/her designee and a determination that there is a potential Conflict of Interest, the Appropriate Vice President or his/her designee will initiate an Inquiry. The purpose of the Inquiry is to explore further the allegations and determine whether a Conflict of Interest exists and, if a Conflict of Interest does exist, to determine the best method for managing it. The Inquiry will focus on the existence of a Conflict of Interest as defined in this Conflict of Interest Policy and examine the factual materials of each case. In the course of the Inquiry, additional information may emerge that justifies broadening the scope of the Inquiry beyond the initial allegations.

2.3.2. Procedure.

The Appropriate Vice President or his/her designee will determine the appropriate method for conducting the Inquiry Process. This may entail the appointment of a person or committee to gather factual information. The Appropriate Vice President or his/her designee will notify the Employee in writing of the decision to begin the Inquiry and of the procedures that will be used to gather information.

All factual findings will be evaluated by the Appropriate Vice President or his/her designee. The evaluation has three possible designated outcomes:

1. No Conflict of Interest exists.

If the Appropriate Vice President or his/her designee determines that no Conflict of Interest exists, no further review of the documentation is required.

2. A Conflict of Interest exists, but the risk to the University can be managed.

If the Appropriate Vice President or his/her designee determines that a Conflict of Interest exists, but that any risk to the University can be managed, the Appropriate Vice President or his/her designee, in consultation with the Employee and the Executive Head of the Unit, will produce a Memorandum of Understanding to be signed by the University and Employee that details the manner in which the Conflict of Interest will be managed.

3. A significant Conflict of Interest exists and the risk to the University cannot be managed.

If the Appropriate Vice President or his/her designee determines that a Conflict of Interest exists and that the risk to the University cannot be managed, the Appropriate Vice President or his/her designee, in consultation with the Employee and the Executive Head of the Unit, will produce a Memorandum of Understanding to be signed by the University and Employee that details the manner in which the Conflict of Interest will be eliminated.

Upon completion of the review, the signed originals of all documents will be forwarded to the Office of Record and copies will be sent to the Executive Head of the Unit and Employee. If a Memorandum of Understanding is required, after consultation with the Employee and the Executive Head of the Unit, the Appropriate Vice President or his/her designee will draft the document and forward it to the Employee for signature. The signed original Memorandum of Understanding will be forwarded to the Office of Record and a copy will be sent to the Executive Head of the Unit and Employee. If the Employee does not appeal the decision of the Appropriate Vice President, such decision will be final.

3. Appeal

3.1. Initiation of Appeal.

An appeal of the decision by the Appropriate Vice President or his/her designee, or by the President in the case of Conflicts of Interest involving Vice Presidents, may be initiated by the Employee.

- 3.1.1. The Employee must submit a written appeal to the Appropriate Vice President or his/her designee within 30 working days of receiving written notification of the decision. The appeal will then be forwarded to the Conflict of Interest Committee, which will commence the process under subsection 3.2 below.

- 3.1.2. In the case of an administrator at the level of Dean, Director, or higher, she/he must submit a written appeal to the President within 30 working days of receiving written notification of the decision. The appeal will then be forwarded to the Chair of the Conflict of Interest Committee, which will commence the process under subsection 3.2 below.

### 3.2. Process and Structure.

- 3.2.1. The Chair of the Conflict of Interest Committee will consult with the Chair of the University Senate to appoint a three-person Committee of Investigation, all without conflict of interest. If the Conflict of Interest involves an Employee who is a member of the faculty, at least two members of the Committee of Investigation must be tenured faculty at the rank of associate or full professor and have appropriate expertise for evaluating the information relative to the case. If the Conflict of Interest involves an Employee who is not a member of the faculty, at least two members of the Committee of Investigation must be members of the staff or administration and have appropriate expertise for evaluating the information relative to the case. Members of the Committee of Investigation may be appointed from outside the University of North Dakota community if, in the judgment of the Conflict of Interest Committee, the circumstances justify such an appointment. Otherwise, the third member will be appointed from within the University and must meet the same requirements as those listed for the first two members. Appointment of a Committee of Investigation will be made within 20 working days, or such later time as agreed to by both the Employee and Chair of the Conflict of Interest Committee, following the receipt of notice by the Conflict of Interest Committee that the written appeal has been submitted to the Appropriate Vice President.
- 3.2.2. Before the Committee of Investigation is convened, the Chair of the Conflict of Interest Committee will notify the Employee of the procedures that will be used to examine the Conflict of Interest and direct the Employee to the Conflict of Interest Policy. Further, the Employee will be informed of the proposed membership of the Committee of Investigation for the purpose of identifying, in advance, any real or potential conflicts of interest.
- 3.2.3. At its first meeting, the Committee of Investigation will elect a chairperson to handle procedural and administrative matters. All Committee of Investigation members will be voting members. The Committee of Investigation is a fact-finding committee. The Committee will be trained by the Office of General Counsel before they receive the appeal documents.
- 3.2.4. Within 15 calendar days of the Appropriate Vice President or his or her designee's decision, the Employee shall deliver five (5) copies of the appeal to the Committee of Investigation, and the University shall deliver five (5) copies of its response to the Committee within 15 calendar days of receipt of Employee's appeal. Once the response from the University is received, the Committee Chair will distribute both documents to the Committee.
- 3.2.5. The Committee of Investigation will review the documentation and conduct interviews of the Employee, the University's representative(s), and any other individuals who may have information regarding the Employee's conflict. Both the Employee and the University may suggest other individuals to be interviewed by the Committee. It is the Committee's decision as to whom to interview. The Committee may also identify individuals whom they believe would be of help in reaching a recommendation.
- 3.2.6. Every effort will be made to complete the Investigation phase within 120 working days; however, it is acknowledged that some cases may render this time period difficult to meet. In such cases, the Committee of Investigation must prepare a progress report for the Chair of the Conflict of Interest Committee that includes the reasons for the delay and an estimate of the additional time necessary for completion of the Investigation.

### 3.3. Findings.

Upon completion of the Investigation, the Committee of Investigation will submit a draft report to the Employee by certified mail, return receipt requested. The Employee will be given the opportunity to comment in writing upon the findings and recommendations of the Committee of Investigation. If the Employee chooses to comment, such comments will be sent to the Chair of the Committee of Investigation within 20 working days from the date of receipt of the draft report. The Committee of Investigation will review the Employee's comments and then submit a final report to the President.

The final report must include:

- 3.3.1. Summary of appeal. Describe the findings of the Appropriate Vice President and decision of the Appropriate Vice President that is being appealed.
- 3.3.2. Policies and procedures. Describe the institutional policies and procedures under which the Investigation was conducted.
- 3.3.3. Research records and information. Identify and summarize the records and information reviewed, and identify any information taken into custody but not relied upon.
- 3.3.4. Employee's comments. Include the Employee's comments in response to draft report from the Committee of Investigation.
- 3.3.5. Statement of findings. For each separate possible Conflict of Interest identified during the Investigation, provide a finding as to whether a Conflict of Interest exists, and if so summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the Employee.
- 3.3.6. Recommendation. For each separate possible Conflict of Interest, recommend a way to manage the Conflict of Interest or, if management of the Conflict of Interest is not possible, a reasonable period of time for the Employee to eliminate the cause of the Conflict of Interest.

All records of any Investigation will be maintained by the Office of Record (see definition in the Conflict of Interest Policy).

The report will also be sent to the Employee and the President by the Committee of Investigation.

3.4. Final Decision to be made by the President.

The report of the Committee of Investigation will be evaluated by the President. The evaluation has three possible designated outcomes:

3.4.1. No Conflict of Interest exists.

If the President determines that no Conflict of Interest exists, no further review of the documentation is required. The President will draft a memorandum outlining the rationale for the determination, a copy of which will be sent to the Employee, the Appropriate Vice President and the Executive Head of the Unit.

3.4.2. A Conflict of Interest exists, but the risk to the University can be managed.

If the President determines that a Conflict of Interest exists, but that any risk to the University can be managed, the President or his/her designee, in consultation with the Employee and the Executive Head of the Unit, will produce a Memorandum of Understanding to be signed by the University and Employee that details the manner in which the Conflict of Interest will be managed.

3.4.3. A significant Conflict of Interest exists and the risk to the University cannot be managed.

If the President determines that a Conflict of Interest exists and that the risk to the University cannot be managed, the President will produce a Memorandum of Understanding to be signed by the University and Employee that details the manner in which the Conflict of Interest will be eliminated.

Upon completion of the review, the signed originals of all documents will be forwarded to the Office of Record, and copies will be sent to the Executive Head of the Unit and Employee. If a Memorandum of

Understanding is required (and is different from any Memorandum of Understanding produced earlier in the process), the President or his/her designee will draft the document and forward it to the Employee for signature. The signed original Memorandum of Understanding will be forwarded to the Office of Record and a copy must be sent to the Executive Head of the Unit and Employee.

4. REPORTING REQUIREMENTS FOR FUNDING AND REGULATORY AGENCIES.

The University will comply with all federal regulations that require certifications and reporting, including that each application for funding to the PHS include specific certifications and agreements in regard to the Conflict of Interest policy and financial conflicts of interest.

### RESPONSIBILITIES

|  |   |
|--|---|
| <b>Individual</b>                          | ▪ Fill out Conflict of Interest Forms annually or as needed |
| <b>Research Development and Compliance</b> | ▪ Collect, Advise, and Monitor Compliance                   |

### FORMS

|                                    |                                     |
|------------------------------------|-------------------------------------|
| <b>Conflict of Interest Form 1</b> | Research Development and Compliance |
| <b>Conflict of Interest Form 2</b> | Research Development and Compliance |
| <b>Conflict of Interest Form 3</b> | Research Development and Compliance |

### REVISION RECORD

|  |                                      |
|--|--------------------------------------|
| <b>5/22/2014 - Policy Implementation</b> | Signed by President Robert O. Kelley |
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**University of North Dakota Conflict of Interest  
DISCLOSABLE INTERESTS DOCUMENT**  
(To be filed annually by September 15th)

Name \_\_\_\_\_ Title \_\_\_\_\_

College/Adm. Unit \_\_\_\_\_ Dept./Adm. Unit \_\_\_\_\_

**SECTION I. SIGNIFICANT FINANCIAL INTEREST**

In your association with the University of North Dakota, are you responsible for the design, conduct, or reporting of research supported by federal agencies; do you have signing authority for off-campus purchases of over \$10,000 per year; OR are you in a position to influence decisions on purchases of over \$10,000 per year?

No If you have answered no, please go to Section II (Page 2).

Yes If you have answered yes, in your association with the University of North Dakota, you must answer the following six-part question.

Do you make or impact decisions that could be influenced because you, your spouse, and/or dependent children:

- 1) Have an interest in a publicly-traded entity\* that consists of any combination of remuneration within the previous 12 months and/or equity interest that exceeds a value of \$5,000?  
 Yes     No
- 2) Have an interest in a non-publicly traded entity\* that paid you remuneration within the previous 12 months of \$5,000 or more or in which you own any equity interest?  
 Yes     No
- 3) Have intellectual property interests in a patent, patent application, or copyright that has not been assigned to the University of North Dakota that has generated any income for you?  
 Yes     No
- 4) Have participated in any travel reimbursed or sponsored by anyone other than federal, state or local government, an institution of higher education, an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education?  
 Yes     No
- 5) Have any income from seminars, lectures, service on advisory panels or teaching engagements sponsored by someone other than a federal, state or local government agency, an institution of higher learning, an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education?  
 Yes     No
- 6) Have salary, royalties or other payments from entities that do business with the University that, when aggregated for the employee and the employee's spouse and/or dependent children over the next twelve months, are expected to exceed \$5,000?  
 Yes     No

If you checked yes to any of the above six items, you must complete Form 2.

\*See Conflict of Interest Policy-Definitions

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## SECTION II. NON-FINANCIAL DISCLOSABLE INTERESTS

During the current fiscal year\*, did you or will you:

- 1) Spend more than 20% of your total work effort on outside, compensated or voluntary, professional/commercial activities, including consulting or management of an outside business if you are a member of the faculty? If you are not a member of the faculty, did you or will you spend any work effort on outside, compensated or voluntary, professional/commercial activities, including consulting or management of an outside business during normal work hours at the University?  
 Yes  No
- 2) Use significant University resources (including faculty, students, support staff, facilities, equipment, or confidential information) in carrying out your outside, compensated or voluntary, professional/commercial activities?  
 Yes  No
- 3) Serve as principal or co-principal investigator for sponsored projects submitted and managed through other academic, federal, or commercial institutions, excluding subcontracts awarded to the University of North Dakota and/or multi-site training or research projects?  
 Yes  No
- 4) Serve as a manager of an outside business activity in your professional field?  
 Yes  No
- 5) Use University resources to create, discover, or reduce to practice, patentable invention(s) which have not been disclosed to the University? (This question does not apply to books or journal articles)  
 Yes  No
- 6) Be involved in any activities other than those listed that may be perceived as a conflict of interest?  
 Yes  No

For each question answered yes, please list all such arrangements and provide an attached written explanation. Dollar amounts are NOT to be disclosed.

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*In submitting this form, I certify that I have read the **Conflict of Interest Policy**. I affirm that the information I have provided is complete and accurate to the best of my knowledge. I recognize my continuing obligation to report changes in my status as they occur. If I declare that I am party to a Memorandum of Understanding with the University regarding a Conflict of Interest, I am in full compliance with that Memorandum of Understanding.*

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Signature

Date

\*See Conflict of Interest Policy-Definitions

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**SECTION III. REVIEW**

I have reviewed the Disclosable Interests Document and any attachments. Check one:

- To the best of my knowledge, a conflict of interest situation does not exist.
- The document may indicate a conflict of interest.

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Signature of Chair of Academic Unit/  
Supervisor of Non-Academic Unit

Date

- To the best of my knowledge, a conflict of interest situation does not exist and no further review is required. (Please forward the document to RD&C, Stop 7134, if this box is checked)
- The document may indicate a conflict of interest; therefore, I am referring the matter for further review to the appropriate Vice President. (Please forward this form to the appropriate Vice President ONLY if this box is checked)

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Signature of Dean of Academic Unit or  
Director /Assoc. VP for Non-Academic Unit

Date

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Title

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**SECTION IV. REVIEW BY THE APPROPRIATE VICE PRESIDENT\***

I have reviewed the Disclosable Interests Document and any attachments. Check one:

- I find that no conflict of interest exists.
- A conflict of interest exists and conditions detailed in a Memorandum of Understanding between the employee and the University must be imposed.
- A conflict of interest exists that cannot be managed and conditions detailed in a Memorandum of Understanding eliminating the conflicting interest must be imposed.

(Please forward the document to RD&C, Stop 7134.)

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Signature of appropriate Vice President\*

Date

\*See Conflict of Interest Policy-Definitions

University of North Dakota Conflict of Interest  
DESCRIPTION OF FINANCIAL INTEREST ACTIVITY

(to be filed if a potential conflict involving a significant financial interest is identified on Form 1)

Name \_\_\_\_\_ Title \_\_\_\_\_

College/Adm. Unit \_\_\_\_\_ Dept./Adm. Unit \_\_\_\_\_

Note that a significant financial interest will generally fall into the category of income, equity, or ownership. Within these areas, a significant financial interest can involve specific items like, but not limited to:

- honoraria, consulting fees, salary, dividends or royalties
- stock, stock option, real estate, or other investment
- ownership
- you, your spouse, and/or dependent children hold a position of management (director, officer, partner, trustee) with an entity
- an entity holding copyright, patent rights, or license rights to a product belonging to you, your spouse, and/or dependent children
- an entity manufacturing or commercializing a product belonging to you, your spouse, and/or dependent children

Please list below 1) name of entity, 2) type of entity (business, non-profit, governmental, or other), and 3) type of financial interest (income, equity, or ownership) for each. Do not include dollar amounts/shares:

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If necessary attach additional page

*In submitting this form, I certify that I have read the **Conflict of Interest Policy**. I affirm that the information I have provided is complete and accurate to the best of my knowledge. I recognize my continuing obligation to report changes in my status as they occur. If I am party to a Memorandum of Understanding with the University regarding a conflict of interest, I am in full compliance with that Memorandum of Understanding.*

Signature

Date

**University of North Dakota Conflict of Interest  
CERTIFICATION OF FILING OF DISCLOSURE DOCUMENT**  
(to be filed by all principal investigators)

Name \_\_\_\_\_ Title \_\_\_\_\_

College/Adm. Unit \_\_\_\_\_ Dept./Adm. Unit \_\_\_\_\_

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This is to certify that on \_\_\_\_\_, I filed Conflict of Interest forms with the University of North Dakota. It includes information regarding any significant financial interests (and those of my spouse and/or dependent children) that would reasonably appear to be in conflict with my research, educational, or service activities, for which sponsored program funding is sought, and in entities whose financial interests would reasonably appear to be affected by the research.

Further, I agree:

- To update this disclosure during the period of any award as new reportable significant financial interests are obtained.
- To cooperate in the development of a Memorandum of Understanding (MOU) that constitutes a conflict of interest “resolution plan” if a conflict of interest is found to exist.
- To comply with any conditions or restrictions imposed by the University to manage, reduce, or eliminate conflicts of interest or forfeit any relevant award.
- To have a fully-executed MOU in place, if required, prior to making any expenditures of sponsored project funds.

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**ENDORSEMENTS:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

I have reviewed the Conflict of Interest forms and believe that, if it is found that a conflict of interest exists, it will be possible to manage that conflict of interest. If needed, an MOU to manage the conflict of interest during the course of an award will be established prior to expenditure of award funds.

\_\_\_\_\_  
Signature of Executive Head of the Unit\*

\_\_\_\_\_  
Date

\*See Conflict of Interest Policy-Definitions