

IDAHO STATE UNIVERSITY
POLICIES AND PROCEDURES
Conflicts of Interest
ISUPP 10600

POLICY INFORMATION

Major Functional Area (MFA): *MFA X - Office of General Counsel and Compliance*

Policy Title: *Conflicts of Interest*

Responsible Executive (RE): *General Counsel*

Sponsoring Organization (SO): *Office of General Counsel*

Dates: Effective Date: *July 27, 2015*

Revised: *August 11, 2017*

Annual Review: *August 11, 2018*

I. POLICY STATEMENT

Idaho State University (ISU or University) endorses and promotes internal interactions of its faculty, staff, and student employees, as well as external interactions with federal, state, and local governments, non-profit groups, and with business and industry as important parts of their administrative, research, teaching, and public service activities. However, upholding the public's trust is essential to the University mission and its reputation. Therefore, University operations and administration, as well as teaching, research, public service, and other activities shall not be ethically compromised, or perceived as compromised, by financial, professional, or personal considerations. All University employees are expected to hold themselves to the highest ethical standards.

In addition to the requirements set forth below, all employees of ISU are also subject to the Conflict of Interest and Ethical Conduct Policy of the [Idaho State Board of Education](#), section II. Q., and the Idaho ethics statutes found in the Idaho Ethics in Government Manual, published by the Idaho Attorney General and available at <http://www2.state.id.us/ag/manuals/index.htm>. ISU faculty is subject to the Faculty Ethics Policy. To the extent there is a conflict between this policy and the State Board of Education (Board) policy or the statutes, the statutes and the Board's policy shall control, in order of authority. All persons involved in sponsored projects are also subject to the Conflict of Interest in Sponsored Projects policy, ISUPP No. 7070.

II. AUTHORITY AND RESPONSIBILITIES

Various federal and state laws and regulations, along with Board and University policies address University employees' actions in the event of real or apparent conflicts of interest. It is the responsibility of the Office of General Counsel to interpret these laws and regulations, and ensure compliance. It is the responsibility of every employee to identify and disclose real and potential conflicts of commitment or interest and outside employment or consulting, and abide by University policies to manage or mitigate such conflicts. Every employee with supervisory responsibilities must have subordinates complete forms for disclosure of outside employment and conflicts of

interest as soon as the outside employment or conflict arises and each year during annual evaluations. When real or apparent conflicts are identified, the employee and his or her supervisor must prepare a plan to manage the conflict, which must be reviewed and approved by the employee's unit head or dean, and the Committee of Ethical Guidance and Oversight as designated by the President and the Executive Vice President and Provost.

III. DEFINITIONS

- A. "Apparent Conflict" exists when an employee is involved in activities in which financial or other personal considerations creates a perceived conflict between the University's mission or interests and the employee's private interests, whether or not there is an actual Conflict of Commitment or Conflict of Interest. An Apparent Conflict exists when a reasonable person would conclude from the circumstances that the employee's ability to act in the University's best interests or perform contractual obligations is compromised by personal interests. For example, an employee may have an outside business interest that appears to influence his or her judgment in University decisions. There may not be an actual conflict, but if the generally-known facts of the situation may lead a reasonable person to conclude that the employee's professional judgment is compromised by personal or financial interests, then an Apparent Conflict exists.
- B. "Close Relative" means a grandmother, grandfather, aunt, uncle, niece, nephew, brother-in-law, sister-in-law, first cousin, or grandchild.
- C. "Committee of Ethical Guidance and Oversight" is a committee that shall review conflicts that are brought forward by employees. It shall consist of a minimum of four (4) faculty members and two (2) staff members appointed by the President and Executive Vice President and Provost. Committee members shall serve a term of two (2) years, and may be appointed to consecutive terms.
- D. "Conflict of Commitment" exists when an employee's efforts with respect to non-University activities interfere with or limit the efforts that should properly be devoted to his or her University appointment.
- E. "Conflict of Interest" exists when an employee is involved in activities in which financial or other personal considerations may directly and significantly affect his or her professional judgment in exercising any University duty or responsibility. Financial or other personal considerations are presumed to exist whenever an employee must, as part of his or her responsibilities, consider any transaction involving a member of his or her Immediate Family or a Close Relative. This includes (a) transactions with an external party in which the employee or an Immediate Family member holds a Significant Financial Interest; and (b) transactions purely internal to the University which would affect an employee's Immediate Family member or Close Relative who is also an employee of the University.
- F. "Immediate Family" means a spouse or domestic partner, parent, step-parent, guardian, brother, sister, mother-in-law, father-in-law, child, or stepchild.
- G. "Private Professional Consulting" is any activity performed by any full-time professional employee or faculty member of the University which meets all of the following criteria:

1. The service performed is based on utilization of the same knowledge and skills for which the consultant serves as an employee or faculty member of the University.
 2. The consultant receives compensation in addition to his or her regular salary.
 3. The service is provided in addition to regular duties performed for the University during the contract obligation.
- H. “Regular Outside Employment” includes employment by the same employer for more than twenty (20) hours in any given calendar week two (2) or more times per month for three (3) or more consecutive months. In addition, professional and/or technical employees must disclose consulting for compensation in any amount.
- I. “Significant Financial Interest” in a business entity or organization is one in which the aggregate value of (1) all salary, wages, gifts, or other pecuniary benefits received from the entity, and (2) the value of any equity held in the entity, is equal to or greater than \$5,000.00.

IV. PROCEDURES TO IMPLEMENT

A. Policy. Each employee is expected to devote his or her primary professional time and energy to the University and to the mission of teaching, research, and public service.

1. Employees shall avoid situations that may result in a Conflict of Interest or Conflict of Commitment. Examples of presumptively prohibited conflicts are set out in section B.3. Situations that may be managed to avoid conflict are set out in section B.2; such situations may proceed if approved in writing by the Committee of Ethical Guidance and Oversight, and subject to an authorized management plan that prescribes the necessary steps and management to avoid the conflict.
2. University employees who have actual or Apparent Conflicts must disclose them in compliance with this policy. In all matters, employees must take appropriate steps, including consultation with his or her unit head or dean if issues are unclear, to avoid both Conflicts of Interest and Conflicts of Commitment and the appearance of such conflicts.
3. In furtherance of this policy, ISU requires that the Purchasing Department’s policies for competitive bidding be used in the procurement of materials, supplies, equipment, and contractual services of \$10,000 and above in one time or cumulative value. This requirement includes printing, which has a different dollar amount. This provision may not apply when circumstances warrant sole source contracting as permitted by Purchasing Department rules. In addition to the certifications required by this policy, the Purchasing Department also requires specific conflict of interest certifications related to sole source procurement and to proposal evaluations.

B. Conflicts of Interest or Conflicts of Commitment Activities. Activities that may involve actual or apparent Conflicts of Interest or Conflicts of Commitment fall into three (3) general categories that differentiate relationships according to potential for adverse impact. These include but are not limited to:

1. Activities that are routinely allowable and are not required to be disclosed pursuant to this policy, including the following:

- a. Membership in and service to professional associations and learned societies; membership on professional review or advisory panels, presentations, participation in conferences, reviewing or editing scholarly publications, and service to accreditation bodies as long as they do not conflict or interfere with the timely performance of primary University duties. These activities are permitted even if they are performed for nominal honoraria or reimbursement of expenses, provided that payment or reimbursement does not exceed \$5,000.00 in any twelve (12) month period, and does not conflict with any other applicable University, state, or federal policy, law, rule or regulation.
 - b. Receiving royalties for published scholarly works and other materials or for inventions pursuant to the University's patent and copyright procedures.
2. Activities that may be allowable following disclosure and development of an authorized management plan include but are not limited to:
- a. General Activities
 - i. Possessing a Significant Financial Interest in a business that competes with the services provided by the University as part of its academic, research, or training mission.
 - ii. Assuming an executive position or having a Significant Financial Interest in a for-profit business engaged in activities in an area related to the employee's University responsibilities.
 - iii. Possessing a Significant Financial Interest in a business that is in a field related to the employee's University responsibilities.
 - iv. Engaging in any other activity that has the potential for creating a Conflict of Interest or Conflict of Commitment.
 - v. Ownership of or equity in a corporation used solely for the employee's consulting activities.
 - vi. Requiring or recommending the employee's own textbook or other teaching aids, materials, software, equipment, or the like to be used in connection with University instructional programs from which the employee receives income, or that of an Immediate Family member or Close Relative.
 - vii. Subject to the disclosure requirements set forth in this Policy, ISU employees may engage in outside employment of a professional or personal nature, directly related to the professional or other competencies of the employee. However, no employee may undertake outside employment that interferes with the employee's assigned duties to the University. In all outside employment, the outside employer must be informed that the employee is acting in a private capacity, and that the University is in no way a party to the outside employment, and is not liable or responsible for the performance thereof.
 - viii. Financial Conflicts of Interest between employees and students. Business relationships and investment endeavors presenting financial risk to students or which do not present a clear benefit to the educational opportunities of the student are strongly discouraged.
 - ix. Private consulting by members of the University's professional staff and faculty is authorized subject to the following conditions:
 - a) Academic

- (1) The proposed activity must be compatible with the employee's profession.
- (2) The proposed activity will not interfere with the performance of the employee's assigned duties.
- (3) Written approval must be granted by the employee's supervisor.

b) Financial

- (1) The consulting service should not constitute unfair competition with a similar service already available. The employee should not make use of University-owned resources to undercut the prices charged by competitors. (In general, consulting fees should be commensurate with the professional standing of the employee, but should be established through negotiations between the employee and the client).
- (2) In all private consulting engagements, the client must be informed that the employee is acting as a private consultant, that the University is in no way party to the contract, nor liable, nor responsible for the performance thereof.
- (3) Professional consulting services which are performed as a part of the employee's regularly assigned duties are not subject to special consulting charges by the employee consultant. Under special circumstances (each instance subject to the Committee on Ethical Guidance and Oversight's approval) professional services for the University which are clearly beyond the duties assigned the employee by the University may be compensated.
- (4) No University resources, including but not limited to facilities, staff or office supplies, may be used in support of the consulting service.

3. Activities that are presumptively not allowable include but are not limited to:

a. General Activities

- i. Taking administrative action in the course and scope of University responsibilities that is beneficial to a business in which the employee or an Immediate Family member or Close Relative has a Significant Financial Interest.
- ii. Influencing the negotiation of contracts between the University and an outside organization with which the employee or an Immediate Family member or Close Relative has a Significant Financial Interest.
- iii. Making referrals of University work to an external business or professional office in which such employee or Immediate Family member or Close Relative has a Significant Financial Interest.
- iv. Associating the employee's name or work with an external activity in such a way as to profit monetarily by trading on the reputation or good will of, or implying sponsorship or endorsement by, the University. Mere identification of the University as the employee's employer and of the employee's position at the University is permitted, provided that such identification is not used in a manner that implies sponsorship or endorsement by the University.
- v. Accepting or soliciting any gift favor, or service that might influence or appear to influence the employee in the discharge of his or her official duties, or that the employee knows or has reasonable cause to believe is being offered with the

intent to influence their conduct. Notwithstanding this prohibition, employees may accept trivial benefits that are not in excess of \$50.00 provided that such benefit is incident to personal, professional or business contacts and involves no substantial risk of undermining their impartiality.

b. Public Disclosure Activities

- i. Publishing or formally presenting results of research under University auspices, or providing expert commentary on a subject, without simultaneously disclosing any Significant Financial Interest relating to such results or such subject.
- ii. Unauthorized use of privileged information acquired in connection with the employee's University responsibilities. This is not intended to apply to standard publication activity.

C. Reporting and Approval.

- 1. Disclosure of Potential Conflicts: All employees are required to complete and submit the Conflicts of Interest Form at the time the conflict or outside employment arises. The disclosure form shall be reviewed each year at the time of the employee's performance evaluation.
 - a. The supervisor or department head/chair or director must ensure that the employee is not involved in making decisions with respect to a transaction, whether internal or involving a third party, in which the employee has an actual or apparent Conflict of Interest. If such decision making may occur, a management plan shall be developed. The management plan shall include a general description of the activity; whether University resources will be used; how financial oversight will be implemented to ensure the employee does not have control of University finances as it relates to the conflict; the term of the management plan; and the review dates of the management plan.
 - b. All Conflict of Interest forms and proposed management plans must be reviewed and approved by the supervisor and the dean or unit head, and submitted to the Committee on Ethical Guidance and Oversight. The committee shall review the proposed plan and make a recommendation to the President and the Executive Vice President and Provost as to whether to approve the proposed plan and allow the situation to proceed under the management plan or whether to amend the proposed plan as needed.

PRESIDENTIAL CERTIFICATION

Date: _____

Approved by Arthur C. Vailas
President, Idaho State University

OGC use only:
Received by OGC on _____ by _____ (initial)

Published to ISUPP on _____ by _____ (initial)

Conflict of Interest Form
TO BE COMPLETED WHEN YOU HAVE A CONFLICT TO DISCLOSE OR A CHANGE
IN CONFLICT CIRCUMSTANCES

EMPLOYEE INFORMATION:

Name _____ Bengal ID No. _____
Campus Phone No. _____ Department _____
Position Title _____ Email Address _____

_____ I have a new conflict to report.

_____ This report is made following a change of circumstances and replaces my prior report.

Employee Conflicts of Interest Disclosure

By signing here, you are certifying that the information that you provide in this form and in the management plan (if necessary) is accurate to the best of your knowledge as of the date of your signature, and you commit to providing an updated form to your supervisor if a material change occurs in the information you have provided. Please sign and date this form and submit it to your department head or chair supervisor/institute director along with separate pages describing the nature of the reported conflict.

Signed _____ Date _____

Supervisor Review

_____ I concur with the employee's conflict(s) and the plan(s) to manage the conflict(s).

_____ I do not concur with the employee's management of one or more conflicts. Attached are my reasons for not concurring.

_____ Date _____

Department Head or Chair /Supervisor/ Director

Unit Administrator Review

_____ I concur with the supervisor's review.

_____ I do not concur with the supervisor's review. Attached are my reasons for not concurring.

_____ Date _____

Dean/ Unit Administrator

Committee on Ethical Guidance and Oversight Action

_____ I concur with the above reviews and the proposed management plan.

_____ I do not concur with the above reviews and the proposed management plan. Attached are the required actions.

_____ Date _____

Chair, Ethical Guidance and Oversight Committee

- Copy to employee, employee's supervisor, and employee's unit administrator
- Original document on file in the office of Human Resources

MANAGEMENT PLAN

Description of the activity: _____

University resources being used: _____

Describe the financial oversight to ensure the employee doesn't have control of University finances as they relate to the activity: _____

Activity will take place from: _____
through: _____

Is this Regular Outside Employment? If yes, provide detail: _____

If this involves an ownership interest in the outside entity, what type of ownership interest is it, what percentage interest is owned, and what is the value of the interest: _____

Income from the outside activity: _____

Other circumstances to report, if any: _____

I agree not to participate in any negotiations concerning agreements between the University or any entity affiliated with the University and the outside entity. I shall not compete with the University, share confidential information of the University, or use ISU's name or identifying insignia in connection with the activity.

Employee name: _____ Date: _____

Employee signature: _____