

Office of the President, CSU, Chico



Executive Memorandum 12-065

August 30, 2012

From: Paul J. Zingg, President

Subject: Conflict of Interest in Grants and Contracts; supersedes EM 08-002

Upon the recommendation of the Academic Senate I approve the Conflict of Interest in Grants and Contracts Policy. This document supersedes EM 08-002.

This policy intends to identify and address potential conflicts of interest that may arise among campus personnel proposing or engaging in externally funded activities. This policy is required by state and Federal laws and regulations, as well as a memorandum from the CSU Chancellor's Office.

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I. Introduction

California State University, Chico encourages campus personnel to engage in a variety of scholarly and creative activities, including those leading to external funding or income from public agencies, private entities and individuals, and entrepreneurial ventures.

At times, such activities may create situations that lead to potential or real instances of conflict of interest. The University recognizes the obligation of individuals and the institution to ensure that instances of conflict of interest do not improperly affect university activities, including those conducted through auxiliary organizations. Therefore, through the policies and procedures set forth herein, CSU, Chico intends to identify and address potential conflicts of interest that may arise among campus personnel proposing or engaging in externally funded activities.

This policy recognizes that State of California and federal government laws and regulations, which differ, do exist. These regulations and the CSU Chancellor's Office Memo HR 2005-38 require CSU, Chico to establish and maintain a conflict of interest policy and implementing procedures. The intention of the policy set forth below is to establish a uniform policy which covers state and federal laws and regulations currently in place and those anticipated and to provide the public with accountability in the institution's dealings with external organizations.

II. General Principles and Policy

This policy is based upon the principle that institutions of higher education operate for the common good. Advancement of this mission requires that employees avoid conflicts of interest that may impair public trust and conflicts of commitment that may compromise their performance effectiveness. CSU, Chico has a responsibility to manage, reduce, or eliminate any actual or potential conflicts of interest involving activities conducted under the authority of the University or its auxiliary organizations.

Each investigator, as defined below, is required to file the appropriate disclosure form and any related information as specified in this policy. In no case shall the University, Research Foundation, University Foundation, or Associated Students accept funds from an external agency or individual on behalf of an employee or project in the absence of the disclosures required in this policy and the satisfactory completion of actions required by the provisions of this policy, the applicable regulations and any findings approved by the President to manage, reduce or eliminate any conflicts of interest.

Department chairs, deans, or other administrators will disqualify themselves from approving a proposal for a project to be funded in whole or in part by a nongovernmental entity in which they have a financial interest. Also in keeping with CSU regulations, investigators will not make, participate in, or in any way attempt to use the investigator's position to influence the making of any governmental decision that foreseeably will have a material financial effect as specified in HR 2005-38 and any subsequent regulations.

III. Definitions

A. A potential *conflict of interest* occurs when a divergence develops between an individual's private interests and his or her professional obligations to the University and its auxiliary organizations such that an independent observer might reasonably question whether the individual's professional actions or decisions are determined by considerations of personal gain, financial or otherwise. In particular, a *financial conflict of interest* (FCOI) means a *significant financial interest* that could directly and significantly affect the design, conduct, or reporting of a sponsored project. Reviewer(s) of disclosure statements can find an actual or potential conflict of interest when it is determined that a *significant financial interest* of the investigator could directly or significantly affect the assigned campus activities and professional obligations of campus personnel. Each campus personnel member must disclose all financial interests that would reasonably appear to be affected by the proposed activities.

B. *Investigator* means any member of the campus community who is a full- or part-time or temporary employee of California State University, Chico or a university auxiliary organization who is assigned the task of principal investigator(s)/project director(s) and any other member of the campus community who is responsible for the design, conduct, or reporting of activities proposed for funding or funded by an external source. The latter includes funds provided by grants and contracts and other means. In this context, "investigator" also includes the investigator's spouse and dependent children. For the purposes of this policy, investigators also may include subcontractors where the foregoing definition may apply.

C. *Nongovernmental funding source* refers to entities other than federal, state or local government agencies and their subsidiaries and nonprofit entities exempted from the financial disclosure requirement by the California Fair Political Practices Commission.

D. *Financial interest* refers to anything of monetary value, whether or not the value is readily ascertainable, including but not limited to salary or other payments for services (e.g., consulting fees or honorariums), equity interests (e.g., stocks, stock options or other ownership interests), reimbursed travel under some circumstances and intellectual property rights (e.g., patents, copyrights, and royalties from such rights).

E. *Institution* means any domestic or foreign, public or private, entity or organization (excluding a federal agency) that is applying for, or that receives, external funding in the form of grants or contracts.

F. *Institutional responsibilities* means an Investigator's professional responsibilities on behalf of the Institution, and as defined by the Institution in its policy on financial conflicts of interest, which for this policy includes such activities as research, research consulting, teaching, professional practice, institutional committee memberships, and service panels on behalf of the Institution.

G. *Manage* means taking action to address a *financial conflict of interest*, which can include reducing or eliminating the financial conflict of interest, to ensure, to the extent possible, that the design, conduct, and reporting of the sponsored project will be free from bias.

H. *Sponsored Project* means a grant or contract awarded to the Institution by an external funding source usually resulting from a proposal and awarded in the form of a grant or contract.

I. *Research* means a systematic investigation, study, or experiment designed to develop or contribute to generalizable knowledge relating broadly to a particular subject or field. The term encompasses basic and applied research.

J. *Significant financial interest* is defined as follows as a result of differing state and federal regulations.

1. In relation to ***nongovernmental funding source(s)*** *significant financial interest* is involved and must be disclosed where a funding source has allocated to the investigator (including investigator's spouse or dependent children).

- \$500 or more in income, salary or other payment(s) for services (outside the parameters of a current or previous award conducted through the campus wherein the investigator was paid through the campus) in the last 12 months
- A gift of \$50 or more in the last 12 months, including payment for travel
- A loan(s) of \$500 or more in the last 12 months, or the investigator
- Has investment or equity interest in the nongovernmental funding source of more than \$2,000
- Serves as a director, officer, partner, trustee, consultant or employee or holds any management position in the entity providing the funds.

2. In relation to ***governmental funding source(s)***, the National Science Foundation (NSF) and the National Institutes of Health (NIH) have differing definitions of what constitutes a significant financial of interest.

a. For the **National Institutes of Health NIH** significant financial interest is involved and must be disclosed when one or more of the following financial interests of the investigator (and those of the investigator's spouse or dependent children) reasonably appears to be related to the investigator's Institutional responsibilities:

- With regard to any **publicly traded entity**, a *significant financial interest* exists if the value of any remuneration received from the entity in the 12 months preceding the disclosure and the value of any equity interest in the entity as of the date of the disclosure, when aggregated, exceeds \$5000. Remuneration includes salary and any payment not otherwise identified as salary (such as consulting fees, honoraria, paid authorships). Equity interest includes any stock, stock option, or other ownership interest, as determined through reference to public prices or other reasonable measures of fair market value. In aggregate includes any remuneration or equity interest received by the investigator's spouse or dependent children;
- With regard to any **non-publicly traded entity**, a *significant financial interest* exists if the value of any remuneration received from the entity in the 12 months preceding the disclosure, when aggregated, exceeds \$5000, or when the investigator (and/or investigator's spouse or dependent children) holds **any** equity interest (such as stock, stock option), or other ownership interest; or
- With regard to **intellectual property rights** and interests (such as patents and/or copyrights), a *significant financial interest* exists upon receipt of income related to such rights and interests.
- In addition, for the previous 12 months and over the life of the award, investigators also must disclose any **travel**, regardless of the value, related to their institutional responsibilities that are reimbursed by an external entity. Exceptions to this

disclosure requirement include travel unrelated to an NIH funded project, travel that is reimbursed or sponsored by a federal, state, or local government agency, an institution of higher education as defined by 20 U.S.C.1001 (a), an academic teaching hospital, a medical center, a research institute that is affiliated with an institution of higher education or travel reimbursed through a university auxiliary organization. When disclosure is required, the investigator will disclose at a minimum the purpose of the trip, the identity of the sponsor/organizer, the destination and the duration. The Institution's official will determine if further information is needed, including a determination or disclosure of monetary value, in order to determine whether the travel constitutes a *financial conflict of interest*.

For National Institutes of Health (NIH), *significant financial interest* does not include

- Salary, royalties, or other remuneration from the Institution or its auxiliary organizations if the investigator is currently employed by the Institution, including intellectual property rights assigned to the Institution and agreements to share royalties related to such rights
- Income from seminars, lectures, or teaching engagements sponsored by a federal, state, or local government agency, an institution of higher education as defined at 20 U.S.C.1001 (a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education
- Income from service on advisory committees or review panels for a federal, state, or local government agency, an institution of higher education as defined at 20 U.S.C.1001 (a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education
- Income from investment vehicles, such as mutual funds and retirement accounts, as long as the investigator does not directly control the investment decisions made in these vehicles
- Any ownership interests in an institution of higher education or its auxiliary organizations, if either are an applicant under the Small Business Innovation Research Program or Small Business Technology Program.

b. For National Science Foundation (NSF), *significant financial interests* is involved and must be disclosed where one or more of the following financial interests of the investigator (and those of the investigator's spouse or dependent children) reasonably appears to be related to the investigator's Institutional responsibilities:

- A *significant financial interest* exists if an equity interest that, when aggregated for the investigator and the investigator's spouse and dependent children, exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of market value, and represent more than a 5% ownership interest in any single entity
- A *significant financial interest* exists when salary, royalties or other payments that, when aggregated for the investigator and the investigator's spouse or dependent children, have exceeded or are expected to exceed \$10,000 during any immediately preceding or following 12 month period.

For National Science Foundation (NSF), *significant financial interest* does not include:

- Salary, royalties or other remuneration from the applicant Institution

- Any ownership interest in the Institution, if the Institution is an applicant under the Small Business Innovation Program or Small Business Technology Transfer Program
- Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities
- Income from service on advisory committees or review panels for public or nonprofit entities
- Equity interest and/or salary, royalty and other payments do not exceed the thresholds in the section regarding NSF immediately above.

The threshold reporting requirements above will change automatically with changes in federal and state regulations.

IV. Process: The Investigator Disclosure and Conflict Resolution Plan

CSU, Chico requires that an investigator disclose any *Significant Financial Interest*, as defined above that may present an actual or potential conflict of interest with assigned Institutional responsibilities. As required by the Office of Research and Sponsored Programs, each investigator will file the appropriate disclosure form even if the investigator believes no conflict of interest exists.

Investigators must disclose *Significant Financial Interests* at the time of proposal submission to NSF or NIH. As required by federal regulations, and any subsequent modifications, CSU, Chico requires that sub recipient institutions and investigators follow the appropriate regulations and report any findings of financial conflicts of interest to the Vice Provost for Research who is charged with any follow up on such disclosures that may be required to meet the federal guidelines.

Investigators who have principal responsibility for a research project funded or supported, in whole or in part, by a contract, grant or gift from a *nongovernmental entity*, are required to report financial interests before final acceptance of the award, and file a new form within 30 days if funding is renewed from the same source. A project completion statement must also be filed within 90 days of expiration of the contract, grant or gift from a nongovernmental source.

Investigators must file an updated form within 30 days of obtaining new, potential Financial Conflicts of Interest if new financial interests are obtained during the life of any award or gift from NSF, NIH or a nongovernmental source.

Awards or gifts cannot be accepted until any conflict of interest issues are resolved.

Each investigator will complete the appropriate Conflict of Interest Disclosure Form, either a California Form 700-U for a *nongovernmental funding source*, or a Governmental Funding Source Form (NSF or NIH). The appropriate form must be submitted to the Office of Research and Sponsored Programs. In addition, each investigator must file an updated form at any time during the award period when a material change occurs that presents a conflict of interest as defined by this policy.

Supporting documentation that provides details of the investigator's *significant financial interest(s)*, relationship(s) with external entity(ies), and any other pertinent information should be attached to the form (in a sealed envelope labeled with the term "Confidential" and the investigator's name if the investigator prefers confidentiality beyond those who must review the documentation).

The Vice Provost for Research will conduct a review of all financial disclosure forms. A conflict of interest exists when the review reasonably determines that a *significant financial interest* could directly

and significantly affect the design, conduct, and reporting of the proposed activity (ies). Upon receiving a disclosure form that may disclose a potential conflict of interest, the Vice Provost for Research will notify the investigator(s) and convene an Independent Review Committee as described below.

An Independent Review Committee will be established as appointed by the President or the President's designee. The Independent Review Committee will be composed of at least three members including a faculty or staff person as appropriate from another department or occupation area, an administrator, and a member at large. The Vice Provost for Research will serve as a non-voting committee chair to organize the Review Committee, call meetings, make and maintain a record of meetings and provide staff and other resources to the committee.

The Independent Review Committee will engage in an independent substantive review of the potential conflict(s) of interest to determine if a *significant conflict of* interest as defined by this policy does exist or potentially could occur. In conducting its business, the committee may confer with other individuals, including the investigator(s) involved, to gain information and discuss possible solutions to the conflict(s) of interest. If a conflict of interest is found to exist or the potential for one could occur, the committee will make recommendations as to how to *manage*, reduce or eliminate the potential or actual conflict(s) of interest. The committee may also conclude that the conflict(s) of interest cannot be managed, reduced or eliminated so that the award or gift may be accepted. The committee's recommendations will be reduced to writing and submitted first to the Provost for review and comment and then to the President who will make the final determination as to what actions should be taken. The President's decision(s) will be reduced to writing and presented to the Vice Provost for Research for dissemination to the appropriate individuals including the investigator(s) and all potentially affected faculty and units. The Vice Provost for Research will see that a written record is recorded throughout the process and maintained for at least three years following the President's decision or the end of the project, whichever occurs last. Records, upon a lawful request, will be made available to the public upon conclusion of the review process.

Committee recommendations for managing, reducing or eliminating conflict(s) of interest may include but not be limited to the following:

- Public disclosure of significant financial interests
- Monitoring of research by independent reviewers capable of taking measures to protect the design, conduct, and reporting of the research against bias resulting from the Financial Conflict of Interest.
- Modification of the research plan
- Change of personnel or personnel responsibilities, or disqualification from participation in all or the portion of the project that is affected by the Financial Conflict of Interest
- Reduction or divestiture of *significant financial interests*
- Severance of relationships that create actual or potential Financial Conflicts of Interest.
- For research projects involving human subjects research, disclosure of Financial Conflicts of Interest directly to the participants.

If a management plan is required to manage, reduce or eliminate a significant conflict of interest, the plan should be reduced to writing and submitted as a report to the funding agency. Such a plan and report will include the following:

- The role and principal duties of the conflicted Investigator in the research project
- Conditions of the management plan
- How the management plan is designed to safeguard objectivity in the research project
- Confirmation of the Investigator's agreement to the management plan
- How the management plan will be monitored to ensure Investigator compliance
- Other information as needed.

The Vice Provost for Research will serve as the University's contact with external entities for reporting, resolving, and otherwise dealing with matters related to this policy. The Vice Provost for Research will report disclosure and resolution activities to agencies and funding sources as required and appropriate.

V. Enforcement and Sanctions

Instances of failure to disclose conflict(s) of interest and potential violation(s) of the resolution plan will be reported/referred to the Vice Provost for Research, and/or Vice Provost for Human Resources. They will jointly investigate the issue(s), following campus and system wide procedures and rules for such matters. Disciplinary measures, if any, will be in keeping with campus and system wide policies and procedures and union contracts current at the time. Funding sources and other appropriate parties will be notified and kept informed as required by state and federal laws and regulations and Research and Sponsored Programs award documents. Appropriate regulations will be followed in any such instance including further management and disclosure of financial conflicts of interest.

VI. Documentation and Record Maintenance

The Vice Provost for Research will maintain records of all disclosures, Independent Review Committee proceedings and recommendations and actions taken pertaining to conflicts for a period of at least three years after the later of the termination or completion of the project to which such documents relate or the resolution of any action(s) involving these records.

VII. Ethics Training

The Vice Provost for Research, in coordination with the Human Resources Service Center and Faculty Affairs, will ensure that the campus meets any state or federal regulations regarding the provision of ethics training to investigators. NIH regulations require that each investigator complete training prior to engaging in research related to Public Health Service funding and undergo training at least every four years. Certain circumstances require training at other times as well.

VIII Public Disclosure

As required by NIH, any significant financial interest(s) disclosed and any resulting management plan(s) will be publicly disclosed within five days of a lawful request for such information. General public disclosure laws and regulations may require disclosure of other conflict of interest documents and findings.