

## CLEAN VERSION

# University Handbook, Appendix S: Kansas State University Policy on Conflict of Interest, Conflict of Time Commitment, and Outside Activity

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### Preamble

This policy is based on, and subject to, the Kansas Board of Regents' (Board) policy titled [Commitment of Time, Conflict of Interest, Consulting and Other Employment](#), incorporated herein, as well as applicable federal, state, and Board laws, regulations, rules, and policies governing real or apparent conflict of interest, conflict of time commitment, and outside activity.

### Definitions

As used in this policy, the following terms shall have the described meanings:

- a. **"Associate Entities"** means corporations, companies, partnerships, trusts, joint venture, or other organizations or business interests in which an individual has a significant interest.
- b. **"Conflict of Interest"** has the meaning fully described in the Board's [Policy Manual](#). In general, a conflict of interest occurs when there is a divergence between an Employee's private, personal relationships, or interests and their professional obligations to the University such that an independent observer might reasonably question whether the Employee's professional actions or decisions are determined or substantially influenced by considerations of personal benefit, gain, or advantage.
- c. **"Conflict of Time Commitment"** has the meaning fully described in the Board's [Policy Manual](#). In general, whenever an Employee's Outside Activity exceeds reasonable time limits, or whenever a full-time Employee's primary professional responsibility is not to the University, a Conflict of Time Commitment exists.
- d. **"Employee"** means a person subject to this policy, including all University faculty members and unclassified professionals and any other persons to the extent compliance is required by applicable law, Board, or University policy or directive.
- e. **"Initial Disclosure"** is the first report of an Employee's activity or interest, either at the point of hire, or as the activity or interest arises during their continued employment.
- f. **"Immediate Family"** means an individual's spouse and/or dependent children.
- g. **"Management Plan"** means a written agreement between an Employee and the University that documents how a real or apparent conflict of interest or time commitment will be handled.
- h. **"Responsible Dean or Administrator"** means a Responsible Supervisor's supervising Dean or other comparable administrator who is responsible for a second review of the disclosures made pursuant to this policy.
- i. **"Responsible Supervisor"** means an Employee's department head, unit head, or other supervisor who is responsible for a first review of the disclosures made in accordance with this policy.
- j. **"Outside Activity"** means consulting, public service, *pro bono* work, or employment performed by an Employee for an entity, organization, or individual other than the University. Consistent with Board policy, participation in academic conferences, workshops, and seminars does not usually constitute Outside Activity.
- k. **"Significant Financial or Managerial Interest"** means all holdings greater than \$5,000 or more than 5% ownership in a company.
- l. **"Supplemental Disclosure"** describes any adjustment to an Initial Disclosure such as a change in the context, extent, or nature of the activity or interest or the associated time of an activity.

## **A. Disclosure, Prior Approval, and Annual Certification Requirements**

All Employees have an affirmative and ongoing duty to initially disclose, receive prior approval for, and annually certify to the University any current or prospective situation that may raise questions of a real or apparent Conflict of Interest or Conflict of Time Commitment, as well as any Outside Activity. When applicable, this duty requires Employees to enter into Management Plans to document how real or apparent conflicts will be managed. Disclosures and certifications must be made in a timely manner and as described in this policy and related administrator and supervisor communications.

The requirements for disclosure apply regardless of the duration of the activity or amount of compensation. In the event the Employee is not compensated for an Outside Activity, the requirements for disclosure and prior approval still apply if the activity may raise a question of a real or apparent Conflict of Interest or Conflict of Time Commitment.

Employees have an ongoing duty to communicate with their supervisors regarding their schedule for engaging in approved Outside Activity. For Outside Activity that occurs during an Employee's scheduled time on-duty, or during the University's regular business hours, the Employee shall comply with applicable policies, procedures, and requirements relating to scheduling Outside Activity and, if applicable, use and reporting of time or leave.

In addition to these University disclosure requirements, some Employees are required to submit separate disclosures to other government agencies for their separate review, including federal disclosures as described in Section A.3 and Kansas Secretary of State disclosures as described in Section A.4.

Failure to make required disclosures or certifications in a timely manner, comply with an approved Management Plan, or otherwise comply with this policy may result in sanctions as described in Section D below.

Forms, tutorials, and additional information about these procedures are available at the following link:  
<https://www.k-state.edu/conflict/>

### **1. Procedures for Submitting Disclosures for Prior Approval**

#### **a. Initial Disclosure**

An Initial Disclosure must be submitted and approved (i) for any current or prospective situation that may raise questions of a real or apparent Conflict of Interest or Conflict of Time Commitment and (ii) in advance of undertaking any Outside Activity. This written disclosure shall fully describe the context, extent, and nature of the situation or activity and, if applicable, the amount of time to be spent, including travel time. An Initial Disclosure must also be submitted and approved upon obtaining a Significant Financial or Managerial Interest, or in the case of a new Employee, promptly upon signing their initial appointment. Initial Disclosures must be made as they occur and may not be summarily made in the Annual Certification process described in Section A.2.

#### **b. Supplemental Disclosure**

A Supplemental Disclosure must be submitted and approved in advance of any material change to a previously-approved Initial Disclosure. This Supplemental Disclosure shall fully describe the material change(s) to the approved Initial Disclosure, such as changes in the context, extent, and nature of the situation or activity and, if applicable, the amount of time to be spent, including travel time. Supplemental Disclosures must be made in real time and may not be summarily made as part of the Annual Certification process described in Section A.2.

#### **c. Management Plan**

After submitting an Initial Disclosure or Supplemental Disclosure, the submitting Employee, or their Responsible Supervisor, Responsible Dean or Administrator, or the Provost or their designee may determine a Management Plan is required. Management Plans will address how any real or apparent Conflict of Interest or Conflict of Time Commitment relating to the situation or activity will be handled.

## **2. Procedures for Submitting an Annual Certification**

Between June 1 and July 1 of each year, all Employees shall complete an Annual Certification regarding their real or apparent Conflicts of Interest, and Conflicts of Time Commitment, Outside Activity, and Significant Financial or Managerial Interests. This Annual Certification shall include a representation by the Employee that there have been no material changes to all previously-approved disclosures and Management Plans. Further, the Annual Certification requires each Employee to disclose whether they or members of their Immediate Family, personal household, or Associate Entities have, hold, or engage in Significant Financial or Managerial Interests or Outside Activity.

## **3. Federal Disclosure Requirements**

Extending from federal guidance and regulations, including the [National Security Presidential Memorandum-33](#) and the recommendations provided by the Joint Committee on the Research Environment, it is imperative that the University address concerns regarding undue foreign influence. Concerns are focused around three primary areas: (a) intellectual property theft/academic espionage, (b) sharing of confidential information by peer reviewers with foreign entities or attempting to influence funding decisions, and (c) ensuring adequate disclosure of resource contributions from or affiliations with other organizations, including foreign governments.

Employee's compliance with this policy is essential in part because in accordance with federal funding agency policy and regulations, the University may be required to certify that for each award, any identified conflicts of interest will be managed, reduced, or eliminated, among other obligations for the University including but not limited to those imposed with regard to its Public Health Service-funded researchers (as further set forth in [PPM Chapter 4090](#)). If in the course of certifying compliance with federal disclosure requirements any previously undisclosed conflict is identified, the Employee shall immediately disclose the matter for review in accordance with this policy.

All Employees have an affirmative and ongoing duty to initially disclose, receive prior approval for, and annually certify to the University any current or prospective situation that may raise questions of a real or apparent Conflict of Interest or Conflict of Time Commitment, as well as any Outside Activity

The University and its Employees are required to implement and adhere to any additional policies and procedures and disclosure requirements that are imposed by applicable federal law, including conflict of interest laws. Employees are required to adhere to such requirements as adopted or revised in response to evolving federal law.

## **4. Kansas Secretary of State Disclosure Requirements**

Certain Employees are required by the Kansas Governmental Ethics Commission, pursuant to K.S.A. 46-247 and 46-248, to file a Statement of Substantial Interests (SSI) with the Kansas Secretary of State annually in April. The University will provide those subject to this requirement with instructions for submission around April 1 each year. Submission of an SSI to the Secretary of State does not satisfy an Employee's duties to make any of the other

required disclosures or Annual Certification described in this policy, nor does any disclosure to, or prior approval by, the University satisfy an Employee's duty to submit an SSI to the Kansas Secretary of State.

## **B. University Disclosure and Certification Review and Approval Process**

Initial Disclosures, Supplemental Disclosures, and Annual Certifications will be reviewed as provided in this Section. All required disclosures shall be submitted in accordance with University requirements and shall be used for the determination of whether an individual is in compliance with this policy. Such disclosures will also be available to institutional research officers to permit certification and/or verification of compliance with applicable federal or state regulations. The University maintains these disclosures for a minimum of three years.

### **1. Responsibilities of the Responsible Supervisor**

The submitting Employee's Responsible Supervisor will first review the submitted Initial Disclosure, Supplemental Disclosure, or Annual Certification. The Responsible Supervisor will effect their formal approval when a disclosure (a) does not appear to indicate a real or apparent Conflict of Interest or Conflict of Time Commitment, or (b) where a satisfactory written Management Plan has been developed with the Employee at their department or unit level using the appropriate Management Plan Form. Upon effecting their formal approval, the Responsible Supervisor will forward the Employee's submission and, if applicable, the proposed Management Plan to the Responsible Dean or Administrator for next-level review.

The Responsible Supervisor may request additional information from the Employee when considering their submission, and upon receiving additional or clarifying information may request the Employee resubmit an amended disclosure, certification, or Management Plan. In the event the Responsible Supervisor identifies a real or apparent Conflict of Interest or Conflict of Time Commitment, but a satisfactory written Management Plan has not been developed or management of the real or apparent conflict is otherwise unresolved, the following procedures will be followed: (i) the Responsible Supervisor will prepare a written summary of the matter, provide the affected Employee an opportunity to review and discuss the summary with the Responsible Supervisor, and provide the affected Employee an opportunity to submit their written response recording their perspectives regarding the matter; (ii) the Responsible Supervisor will request, and before forwarding obtain from the affected Employee, a signed acknowledgment documenting the Employee's opportunity to review and discuss the Responsible Supervisor's summary and opportunity to submit their written response; and (iii) the Responsible Supervisor will compile and submit to the Responsible Dean or Administrator the Employee's submitted disclosure or certification forms, draft Management Plans (if any), the Responsible Supervisor's summary of the matter, the Employee's response (if any), the Employee's signed acknowledgment, and any other relevant supporting materials.

### **2. Responsibilities of the Responsible Dean or Administrator**

The Responsible Dean or Administrator will review the materials submitted by the Responsible Supervisor to ensure that the correct procedures have been followed. The Responsible Dean or Administrator will then determine whether the matter involves a real or apparent Conflict of Interest or Conflict of Time Commitment and, if applicable, whether the proposed Management Plan is acceptable. In instances where there is no real or apparent conflict or where the proposed Management Plan is acceptable, the Responsible Dean or Administrator effect their formal approval and forward the Employee's submission and, if applicable, the proposed Management Plan to the Provost or the Provost's designee for final review.

The Responsible Dean or Administrator may request additional information from the Employee and Responsible Supervisor when considering the submission, and upon receiving additional or clarifying information may request the Employee resubmit and Responsible Supervisor first review an amended disclosure, certification, or

Management Plan. The Responsible Dean or Administrator will make recommendations for managing any real or apparent conflict that has not been resolved at the department or unit level. These recommendations will be presented to the Responsible Supervisor and submitting Employee. Those individuals must indicate in writing (a) their acceptance of the Responsible Dean or Administrator's recommendation by preparing and resubmitting a revised Management Plan incorporating those recommendations or (b) their rejection of the recommendation in the form of a memorandum to the Responsible Dean or Administrator that describes the reasons why the individual finds the recommendation unacceptable. Then, the Responsible Dean or Administrator must forward to the Provost, or their designee, the relevant and applicable disclosures, summaries, responses, proposed Management Plans, and other associated and supporting documentation and recommendations.

### **3. Responsibilities of the Provost**

The Provost, or their designee (hereinafter "Provost"), will review all the materials submitted by the Responsible Dean or Administrator, determine whether a real or apparent Conflict of Interest or Conflict of Time Commitment exists, and determine, if applicable, whether the proposed Management Plan adequately manages the real or apparent conflicts and whether there are any inequities in the recommendations for management of the conflict.

If, after review, the Provost does not agree with the sufficiency of the disclosures, content of a proposed Management Plan, or written recommendations of the Responsible Dean or Administrator, the Provost may request additional information from the Employee, Responsible Supervisor, and Responsible Dean or Administrator. Upon receiving additional or clarifying information the Provost may request the Employee, Responsible Supervisor, and Responsible Dean or Administrator first submit and review, as appropriate, any amended disclosure, certification, Management Plan, written recommendation, or other relevant documents. If after receiving all requested additional information and revised documents the Provost still does not agree with the sufficiency of the disclosures, content of a proposed Management Plan, or written recommendations of the Responsible Dean or Administrator, or if no additional information is available or helpful, the Provost will convene the parties to attempt to reach consensus through consultation. If the parties fail to reach consensus, the Provost will decide the matter based on all available information. The individual(s) affected by the disagreement must be notified by the Provost, in writing, of the Provost's decision and its rationale.

### **4. Appeals**

In the event that agreement is not reached by all parties concerned with the management of a case of real or apparent conflict, the aggrieved parties may pursue an administrative appeal following the procedures in [Appendix G](#) of the University Handbook.

### **C. Use of University Resources and Name**

Except in purely incidental and minor ways, University resources, including but not limited to facilities, materials, personnel, or equipment shall not be used in Outside Activity unless prior written approval has been received from the University President or their designee. Such permission shall be granted only when the use of University resources is determined to further the mission of the University. When such permission is granted, the Employee shall make arrangements to reimburse the University for institutional materials, facilities, or services used. Such use shall not be authorized if it violates Board policy on Sales of Products and Services.

The names of the Board, University, or University's controlled corporations may never be used as an endorsement of an Employee's Outside Activity or by any outside entity or person for any purpose without expressed and advance written approval of the Board President, University President, or controlled corporation's Chief Executive Officer, as appropriate. Employees may list their institutional affiliation in professional books, articles, and

monographs they author or edit and in connection with professional workshops they conduct or presentations they make without securing approval.

#### **D. Sanctions**

In the event that an Employee fails to comply with this policy, they will be subject to sanctions under applicable University policies, which may include but are not limited to, written reprimand, the loss of the privilege to submit grant proposals and receive extramural support, and, in extreme cases, dismissal for cause in accordance with University Handbook [Section C161.1](#). Applicable University policies include but are not limited to [Appendix O](#), pursuant to which a researcher or scholar's failure to disclose conflict of interest may constitute research misconduct.