03-01.11 – PROCEDURES ON CONFLICT OF INTEREST FOR FACULTY INTEREST IN SPONSORED RESEARCH OR DEVELOPMENT

I. Policy Statement: This policy sets forth the procedures necessary to obtain the exemption from the ethics law provisions allowed by §15-523(e) of the State Government Article, Maryland Code, at Towson University.

II. Reason for Policy: The Maryland Public Ethics Law ("Ethics Law") prohibits state employees from having certain relationships with entities that may transact business with their employers. Section 15-523(e) of the Ethics Law, however, exempts employees of educational institutions from these prohibitions; specifically §15-523(e) provides:

. . . a present or former official or employee at an educational institution may have a relationship, otherwise prohibited by this subtitle, with an entity engaged in Research or Development, or with an entity having a direct interest in the outcome of Research or Development, only if the educational institution has adopted policies and procedures in accordance with this section, and the official or employee has complied with the policies and procedures. If the provisions of this subsection are not met, the official or employee is not exempt from any relevant provisions of this subtitle.

University System of Maryland Policy (http://www.usmd.edu/regents/bylaws/SectionIII/III111.html) on Conflicts of Interest in Research or Development ("USM Policy") sets forth the content of procedures that each System institution must adopt to obtain the Ethics Law exemption.

III. Definitions:

A. “Financial Interest” is defined in Md. Code, State Gov’t Article §15-201(n) as follows:
1. ownership of any interest as the result of which the owner has received, within the past 3 years, or is presently receiving, or in the future is entitled to receive, more than $1,000 per year, or

2. ownership, by the faculty member or spouse or the ownership of securities of any kind by the faculty member or spouse that represent or are convertible into ownership of more than 3 percent of a business entity.

B. “Interest” is defined in Md. Code, State Gov’t Article §15-102(f) as a legal or equitable economic interest, whether or not subject to an encumbrance or a condition, that is owned or held, in whole or in part, jointly or severally, directly or indirectly. “Interest” does not include:

1. an interest held in the capacity of a personal representative, agent, custodian, fiduciary, or trustee, unless the holder has an equitable interest therein;

2. an interest in a time or demand deposit in a financial institution;

3. an interest in an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period; or

4. a common trust fund or a trust which forms part of a pension or profit sharing plan which has more than 25 participants and which has been determined by the Internal Revenue Service to be a qualified trust under 401 and 501 of the Internal Revenue Code.

C. “Harmful Interest” means an interest which when examined under the review procedures is found to be so influential as to impair impartiality in the conduct of the research, the interpretation of the results of the research and/or determination of research or other professional and employment priorities.

D. “Research or Development” means basic or applied research or development, and includes the development or marketing of university-owned technology, the acquisition of services of an official or employee by an entity for research and development purposes, or participation in state economic development programs.

E. “Relationship” includes any interest in, service to, employment with, gift from, or other benefit or relationship with, an entity prohibited by Title 15, Subtitle 5 of the State’s Public Ethics Law, (the “Conflict of Interest Provisions”) if not disclosed and approved pursuant to these procedures.
“Relationship” includes any relationship of a spouse or other relative of an officer or employee if such relationship creates restrictions on the officer or employee under the Conflict of Interest Provisions of the Ethics Law.

F. “Employee” shall mean University employees but shall not include the University’s President or vice presidents.

III. Responsible Executive and Office:
Responsible Executive: Provost and Vice President for Academic Affairs

Responsible Office: Office of University Research Services

IV. Entities Affected by this Policy: All divisions, colleges, departments, and operating units.

V. Procedures:

A. Applicability

1. These procedures apply to University Employees seeking approval of their Relationship with an entity which:

   a. has a direct Interest in the outcome of Research and/or Development projects administered by the University;

   b. is engaged in Research and/or Development projects administered by the University; or

   c. participates in economic development programs administered by the University.

B. Responsibilities

1. Employees seeking approval to have a Relationship with an entity as defined by these procedures, shall complete the Disclosure Form for Potential Conflict of Interest in Sponsored Projects, available in the University’s Office of University Research Services (OURS). The Disclosure Form must be returned to the OURS before Employees engage in the sponsored Research project or Development activities. The Disclosure Form must also be completed or amended if the circumstances of the Employee concerning the Interest change.

2. The Office of the General Counsel and the Office of the Maryland Attorney General shall be available to advise on matters of conflict of Interest. Any advice provided shall be in writing and made a
matter of record. Any such advice shall not be binding upon the State Ethics Commission.

3. The OURS will forward all Disclosure Forms to the Conflict of Interest Review Board (CIRB) for review and evaluation.

C. Review

1. The CIRB shall review the Disclosure Form at the time of the initial request and at each subsequent filing. The CIRB shall recommend to the President that approval not be granted, if in the judgment of the CIRB:

   a. The disclosed Relationship constitutes a Harmful Interest as defined in these procedures, presents an unacceptable conflict of Interest, or otherwise is not in the best Interests of the University.

   b. The Employee has a substantial agency, policy or management responsibility for:

      i. administering the sponsored Research or economic Development program;

      ii. making or influencing the decision of the University to award the contract; or

      iii. rendering procurement judgments for the project.

   c. The activity will give improper advantage to the entity because of its affiliation or involvement with an Employee.

   d. The activity will lead to the misuse of University students and Employees for the benefit of the entity or would interfere with the Employee’s duties.

2. The CIRB may require the Employee to submit additional documentation if it is unable to make a determination based on the information supplied.

3. The CIRB recommendation shall be based on a majority vote of its members.

4. The CIRB shall forward its recommendation to the President concerning the determination of conflict of Interest and whether an exemption should be granted. The CIRB may recommend that the
President condition approval on the implementation of restrictions or Conflict of Interest Safeguards (COIS) to ensure that activities conducted under sponsored Research or Development projects do not

a. result in the Employee having a substantial agency, policy or management responsibility for the proposed program; or

b. improperly give advantage to entities because of their affiliation or involvement with the Employee; or

c. lead to the misuse of University students and Employees or interfere with the Employee’s duties.

5. If the CIRB determined that the Employee has substantial agency, policy or management responsibility, the CIRB shall not recommend to the President approval of the application unless its recommendation also includes administrative and academic procedures and COIS particular to the circumstances of the faculty member and the application to ensure that the Employee shall have or exercise only an acceptable degree of agency policy or management responsibility over the sponsored Research or Development in question.

D. CIRB

1. The CIRB shall be appointed by the President and composed of six faculty members (recommended by the deans and the AAUP faculty representative), and the Provost or his/her delegate ex-officio. The Chair shall be appointed by the President from among the faculty representatives. The appointed members of the CIRB shall serve for three-year rotational terms. The CIRB will be coordinated through the office of the Dean of the College of Graduate Education and Research, who will convene its meetings as necessary.

2. No member of the CIRB may have a Research or Financial Interest in any matter under consideration by the CIRB. If a member does have a Research or Financial Interest in any matter that is under consideration by the CIRB, that member must recuse herself or himself from all actions of the CIRB that pertain to that matter, and the President must name a temporary replacement for the recused individual.
E. President’s Review

1. The President may accept the CIRB’s recommendation or make his/her own determination based on the above criteria, including imposing restrictions, conditions, or COIS as deemed necessary. The President shall notify the Employee of his decision. An exemption must be approved in writing by the President, whose determination is final. The Employee shall not have a right to grieve any matter arising under these procedures through any process otherwise established for the benefit of University faculty or Employees.

2. If the requirements of these procedures are not met and the President does not approve the Employee’s request for an exemption, the Employee is not exempt from any of the provisions of the Maryland Public Ethics Law. Exemptions approved by the President under these procedures apply only to Employee activities related to sponsored Research or Development and not to other activity by the Employee that may constitute a conflict of Interest, but is not related to the Employee’s involvement in sponsored Research or Development. Moreover, approvals granted under these procedures do not relieve a faculty member’s continuing obligation to adhere to other aspects of USM policies, including the USM Policy on Professional Commitment of Faculty, nor the obligation to adhere to other provisions of the Maryland Public Ethics Law, including the restrictions relating to prohibited gifts, misuse of position, and prohibited representation for contingent fees. (Md. Code, State Gov’t Article §§15-504, 15-505, and 15-506).

3. The President may revoke, rescind, or modify approval as necessary if circumstances surrounding the faculty member’s Relationship with the entity change.

F. Filing and Reporting

The Dean of the College of Graduate Education and Research shall file the disclosure with the State Ethics Commission and a copy shall be maintained as a public record in the OURS files for a minimum of three years from the date of filing a report.

Related Policies: USM Policy III-1.11

Approval Date: 05/12/1998

Effective Date: 05/12/1998
Amended Date: 08/23/2004
11/14/2007
05/05/2015

Approved by: President’s Council 11/14/2007