03-01.11 – POLICY ON CONFLICT OF INTEREST IN RESEARCH OR DEVELOPMENT

I. Policy Statement:

This policy sets forth the procedures necessary to obtain an exemption from the ethics law provisions allowed by the Maryland Public Ethics Law\(^1\) ("Ethics Law") at Towson University. The policy also allows Towson University to fulfill its obligations to federal and other sponsors that have financial conflict of interest regulations including but not limited to the Public Health Service as codified in 42 C.F.R. part 50 and the National Science Foundation as enunciated in their Award and Administration Guidelines.

II. Reason for Policy:

The Ethics Law prohibits state employees from having certain relationships with entities that may transact business with their employers. Section 5-525(e) of the Ethics Law, however, exempts employees of educational institutions from these prohibitions; specifically §5-525(e), provides:

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\text{...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.}
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*University System of Maryland Policy* on Conflict 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 (http://www.usmd.edu/regents/bylaws/SectionIII/III111.html).

Additionally, federal agencies disseminate regulations that require recipients of federal funding to disclose and manage real and potential financial conflicts of interest related to research.

III. Definitions:

\(^1\) Annotated Code of Maryland, State Government Article, General Provisions – Title 5 (as amended).
A. "Financial Interest" is defined in §5-101(n) of the Ethics Law as:

1. ownership of any interest as the result of which the owner has received, within the past 3 years, is currently receiving, or in the future is entitled to receive, more than $1,000 per year; or

2. ownership of more than 3% of a business entity by [a faculty member, employee or spouse] or

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

B. "Interest" is defined in §5-102(t) of the Ethics Law as a legal or equitable economic interest, that is owned or held wholly or partly, jointly or severally, directly or indirectly, whether or not the economic interest is subject to an encumbrance or a condition, "Interest" does not include:

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

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

3. an interest in an insurance policy, endowment policy, or annuity contract under which an insurance company promises to pay a fixed amount of money in a lump sum or periodically for life or a specified period;

4. a common trust fund or a trust that forms part of a pension or a profit sharing plan which has more than 25 participants; and is determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code or a qualified tuition plan established pursuant to Section 529 of the Internal Revenue Code; or a mutual fund or exchange-traded fund that is publicly traded on a national scale...

C. "Harmful Interest" means an interest 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 the 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, employment, gift, or other benefit or relationship with an entity that would be prohibited by the Ethics Law as stated in Title 5, Subtitle 5 (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.

IV. Responsible Executive and Office:

Responsible Executive: Provost and Executive Vice President for Academic Affairs

Responsible Office: Office of Sponsored Programs and Research

V. Entities Affected by this Policy:

All divisions, colleges, departments and operating units

VI. Procedures for Employees Other than the President and Vice Presidents:

A. Applicability

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

   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 Towson University Conflict of Interest Assessment Form (the “Disclosure Form”). The Disclosure Form must be returned to the Office of Sponsored Programs (“OSPR”) before an Employee engages in the proposed Research 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 provide advice on matters of conflict of Interest. Any advice provided shall be in writing and made a matter of record.

3. The OSPR will facilitate the Conflict of Interest review process.

C. Review

1. The purpose of the review is to make a final recommendation to the President concerning the determination of a real or potential conflict of Interest and whether an exemption may be granted. The recommendation may include a plan or restrictions to ensure that Research or Development activities do not:

a. Constitute a Harmful Interest or present an unacceptable conflict of Interest, or otherwise is not in the best interest of the University 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/or Employees or interfere with the Employee’s duties.

2. Disclosure Forms shall be submitted to the OSPR for review. If the Disclosure Form is submitted by an Employee within a College, the Dean of the College will conduct a preliminary review in consultation with the OSPR. In all other cases, the Vice President overseeing the Employee’s area will conduct a preliminary review in consultation with the OSPR.

3. The preliminary review may result in one of three outcomes:

a. The information clearly reveals that a Harmful Interest does not exist. This may be determined based upon the information provided and/or through instituting specific steps to ensure no real or potential conflict of interest exists. The preliminary review shall then result in a recommendation to the Provost that an exemption be granted; or

b. The information disclosed in the Disclosure Form is outside the scope of the policy and should be referred elsewhere for review. Such cases will be referred to the Office of General Counsel; or

c. The information reveals that there is a need for additional review, which may include review of steps proposed in the preliminary review to manage a real or potential conflict of Interest. Such cases will be referred to the Conflict of Interest Review Group (CIRG). In such cases, the OSPR will coordinate further review by the CIRG.
4. The CIRG shall be an ad hoc committee of three (3) voting members who are convened to review a disclosure. The CIRG shall be appointed by the Provost or the Provost’s designee.

   a. Disclosures submitted by an Employee within a College will be reviewed by at least three (3) tenured faculty members: (1) one from the same home department as the individual submitting the disclosure, (2) one from a different department in the same home academic college as the individual submitting the disclosure, and (3) a third from an academic college outside the home academic college of the individual submitting the disclosure.

   b. In all other cases, the Disclosure will be reviewed by an Employee who holds the rank of Director or above within the Employee’s Department and at least two (2) tenured faculty members from two different Colleges.

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

6. The CIRG’s recommendation shall be based on a majority vote of its voting members.

7. The recommendation will be forwarded to the Provost who will review it and make a final recommendation to the President concerning the determination of conflict of Interest and whether an exemption should be granted. If the review results in a determination that the Employee has substantial agency, policy or management responsibility, the reviewers shall not recommend, unless its recommendation also includes administrative and academic procedures and a management plan particular to the circumstances of the Employee 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. President’s Review

1. The President may accept the Provost’s recommendation or make a different determination based on the above criteria, including imposing restrictions, conditions, or a management plan as deemed necessary. The President shall notify the Employee in writing of the decision. The written notification shall include any steps required to manage the real or potential conflict. Any 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 this Policy and 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 Ethics Law. Exemptions approved by the President under this Policy and 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.

3. Approvals granted under these procedures do not relieve an Employee’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 Ethics Law, including the restrictions relating to prohibited gifts, misuse of position, and prohibited representation for contingent fee. (§ 5-504, 5-505 and 5-506).

4. The President may revoke, rescind, or modify approval as necessary if circumstances surrounding the Employee’s relationship with the entity change.

VII. Procedures for the President and Vice Presidents

The review of a potential relationship involving the President or a Vice President will be completed in accordance with the USM Policy on Conflicts of Interest in Research or Development, which requires review and oversight by the Board of Regents.

VIII. Other Requirements

A. Education Requirements

1. As required by the USM Policy on Conflicts of Interest in Research or Development, faculty members and administrators serving at the level of college chair or above will be required to complete the online training provided by the State of Ethics Commission within six months of appointment and at least once every five years. Confirmation of completion of training will be maintained by the Provost’s Office.

2. Principal investigators and co-Investigators receiving research funding from federal agencies requiring conflict of interest training are required to complete University prescribed conflict of interest training prior to expenditure of funds on an award. Said training must be updated at least once every four years. Training records will be maintained by the OSPR.

B. Filing and Reporting Requirements

1. The OSPR shall be responsible for filing the disclosure with the State Ethics Commission and the Chancellor’s Office.
2. The OSPR will oversee any reporting requirements that may be required to comply with sponsor regulations. The sponsor’s financial thresholds will be used to determine reporting requirements.

3. Disclosures shall be maintained as public records in the OSPR files for a minimum of three years from the date a report is filed. Sponsored projects retention requirements apply if the disclosure is filed in connection with a grant or contract.

Related Policies: USM Policy III-1.11

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Approved by: President’s Council

Kim Schatzel, Ph.D.
President

Date 11/13/19