

GENERAL UNIVERSITY POLICY REGARDING
ACADEMIC APPOINTEES
Disclosure of Financial Interest in Private Sponsors of Research

APM - 028

028-0 **Policy**

The University of California policy on disclosure of financial interest in private sponsors of research (revised April 26, 1984, with technical updates made on April 29, 2010) is set forth in the following pages.

028-10 **Guidelines**

The University of California guidelines on disclosure of financial interest in private sponsors of research are set forth in the following pages.

University of California
Office of the President
April 29, 2010

**UNIVERSITY POLICY ON DISCLOSURE OF
FINANCIAL INTEREST IN PRIVATE SPONSORS OF RESEARCH**

I. Policy on Disclosure of Financial Interest in Private Sponsors of Research

A principal investigator must disclose whether or not he or she has a direct or indirect financial interest in the sponsor of research which is funded or supported in whole or in part (a) through a contract or grant with a non-governmental entity or (b) by a gift from a non-governmental entity which is earmarked by the donor for a specific research project or a specific principal investigator. Disclosure statements must be filed (a) before final acceptance of such a contract, grant, or gift; and (b) when funding is renewed. The Statements will be open to public inspection. When disclosure indicates that a financial interest exists, an independent substantive review of the disclosure statement and of the research project must take place prior to acceptance of the contract, grant, or gift. Department chairs must disqualify themselves from approving a research proposal for a project which is funded in whole or in part by a non-governmental entity in which they have a financial interest.

This policy is consistent with California Code of Regulations, Title 2, Section 18702.4(c).

II. Definitions

A. "Financial Interest." A "financial interest" in the sponsor of research means:

1. A direct or indirect investment in the sponsor worth \$2,000 or more;¹
2. A position as director, officer, partner, trustee, employee of or any other position of management in the sponsor;

¹An "investment" is defined by Government Code Section 82034, and includes any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest.

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3. Income from the sponsor, including consulting income, aggregating \$500 or more in value, received by or promised to the principal investigator within 12 months prior to the time the award is made. (For the purposes of this policy, “income” is further defined as in California Government Code Section 82030.)
 4. A gift or gifts provided to, received by, or promised to, the principal investigator within 12 months prior to the time the award is made which, when aggregated, meet or exceed the gift limit in the Political Reform Act, California Government Code Section 89503, as adjusted biennially on January 1 of every odd-numbered year based on a Consumer Price Index escalator, California Code of Regulations, Title 2, Section 18940.2.²
- B. “Indirect Investment” or “Indirect Financial Interest.” A principal investigator has an “indirect investment” or “indirect financial interest” in a sponsor if:
1. His or her spouse, registered domestic partner, or dependent child has a financial interest in the sponsor;
 2. The principal investigator, his or her spouse, registered domestic partner, or dependent child own directly, indirectly, or beneficially a 10 percent interest or greater in any business entity or trust which has a financial interest in the sponsor of the research.
- C. “Equity (Ownership) Interest.” For the purposes of this policy, an “equity (ownership) interest” shall be an investment of \$2,000 or more in the sponsor by the principal investigator, his or her spouse, registered domestic partner, or dependent children.
- D. “Gift.” As defined by the Fair Political Practices Commission Form 700-U, also known as the Statement of Economic Interests for Principal Investigators, a gift is anything of value for which you have not provided equal or greater consideration to the donor.

²As of January 1, 2009, the gift limit was \$420. California Code of Regulations, Title 2, Section 18940.2.

III. Disclosure Requirement

When a principal investigator has disclosed a financial interest in a sponsor of research, the required financial disclosure statement on Fair Political Practices Commission Form 700-U shall contain:³

A. Disclosure of Income

1. The name and address of the sponsor, a general description of the business activity, if any, of the sponsor, and the amount of research funding;
2. A statement whether the aggregate value of income from the sponsor, or in the case of a loan, the highest amount owed to the sponsor, was at least \$500 but did not exceed \$1,000, whether it was in excess of \$1,000 but was not greater than \$10,000, whether it was in excess of \$10,000 but was not greater than \$100,000, or whether it was greater than \$100,000;
3. In the case of a gift of \$50 or more, a description of and the amount of the gift and the date received; and
4. In the case of a loan, the annual interest rate and the security, if any, given for the loan.

B. Disclosure of Equity or Ownership Interest and Disclosure of Position in Sponsor

When an investment or equity (ownership) interest is required to be disclosed, or when the principal investigator is a director, officer, partner, trustee, employee, or holds any position of management, the disclosure statement shall contain:

1. A statement of the principal business activity of the sponsor;
2. A statement whether the fair market value of the investment or interest exceeds \$2,000 but does not exceed \$10,000, whether it exceeds \$10,000, but does not exceed \$100,000, whether it exceeds \$100,000 but was not greater than \$1,000,000, or whether it exceeds \$1,000,000; and
3. The position held in the entity by the principal investigator.

³The Fair Political Practices Commission publishes and periodically updates the Form 700-U, also known as the Statement of Economic Interests for Principal Investigators. A current copy of the form may be found at: <http://www.fppc.ca.gov/index.php?id=500>.

IV. Independent Substantive Review Committees

When disclosure indicates that a financial interest exists, an independent substantive review of the disclosure statement and research project shall take place before a contract, grant, or gift is accepted. Chancellors, the Lawrence Berkeley National Laboratory Director, and the Vice President—Agriculture and Natural Resources, after consultation with appropriate academic and administrative groups, shall develop a procedure for independent substantive review including the designation or establishment of a committee to conduct the review.

The committees shall review disclosure statements and relevant features of the research project and on the basis of the review recommend to the Chancellor, the Lawrence Berkeley National Laboratory Director, or the Vice President—Agriculture and Natural Resources whether funding for the research project should be accepted and, if so, whether any modifications or conditions are needed. The committees shall be sufficiently qualified through the experience of their members to promote respect for their advice.

The committees should possess the academic, professional, and administrative competence and expertise necessary to review the subject matter of the proposed research and to assess the University and other public interests involved. The committee may include graduate students and one or more qualified members not affiliated with the University. The committee may consult with administrators, faculty, and others involved in the research and review process and the academic discipline in question. It may also consult with or request principal investigators and department chairs to provide information in order to make a fully informed recommendation. It may also invite individuals with competence in special areas to assist in the review process which require expertise beyond, or in addition to, that available to the committee. The committee review should occur as early as possible in the overall review process to assure that commitments are not inadvertently made to the sponsors. The committee shall, in its written documentation of the review, address each of the principles set forth in the Guidelines. The basis for the recommendation should be clearly established in the documentation of the review.

V. Implementation

Chancellors, the Lawrence Berkeley National Laboratory Director, and the Vice President—Agriculture and Natural Resources shall implement this policy. They must provide the committees with appropriate administrative support, assure that technical advice on conflict of interest matters is provided, and assure that appropriate documents related to this policy are available to the public, as required by law.

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The Provost and Executive Vice President—Academic Affairs has responsibility for assuring compliance with applicable State law, this policy, and related University policies. The Provost and Executive Vice President —Academic Affairs is responsible for developing and issuing implementing guidelines for this policy. The Provost and Executive Vice President—Academic Affairs serves as the liaison on these matters with the Fair Political Practices Commission and with the campuses, the Lawrence Berkeley National Laboratory Director, and the Vice President—Agriculture and Natural Resources.

University of California
Office of the President
April 29, 2010

**GUIDELINES FOR DISCLOSURE AND REVIEW
OF PRINCIPAL INVESTIGATOR'S FINANCIAL INTEREST
IN PRIVATE SPONSORS OF RESEARCH**

**These Guidelines Implement the University Policy on Disclosure of
Financial Interest in Private Sponsors of Research**

I. Rationale

University research is currently reviewed according to the principles specified below and according to other well-established policies guiding the conduct of sponsored research, including the principle that researchers must be free to pursue knowledge and that this freedom, which is essential to the research process, must not lightly be abridged. The proposed review is supplemental to this process and takes advantage of the expertise and structure of the existing system. While it is normally the case that a principal investigator takes responsibility for the central issues raised in these guidelines, when a principal investigator has a financial interest of the sort defined in the University Conflict of Interest Code requiring disclosure, it is possible that his or her judgment may appear to be affected by potential financial gain rather than by the pursuit of knowledge. Therefore, it is proper that the principal investigator, the University community, and the public be assured that the principles central to the research process are followed.

II. Principles

A. Traditional conflict of interest situations should continue to be avoided

In the conventional sense, conflict of interest refers to situations in which employees may have the opportunity to influence the University's business decisions in ways that could lead to personal gain or give advantage to associates or entities in which employees have an interest. Principal investigators, like all UC employees, are expected to continue to separate their University and private interests in accordance with existing University policies and State law.

B. Research is appropriate to the University

The research must be appropriate to the mission of the University, i.e., promising significant contributions to scholarship and knowledge and, when possible, providing appropriate opportunities for students. The suitability of the research would be judged according to the standards of the discipline and should be guided by the principles and policies of University Regulation 4, Special Services to Individuals and Organizations (APM - 020).

C. The teaching and research environment is open

The teaching and research environment should continue to promote the free exchange of ideas, information, and materials among students and faculty in all of their forums—classrooms, laboratories, meetings, and anywhere in the University. Selection of students for participation in the research project should not be inappropriately influenced by the interest of the sponsoring entity.

D. Freedom to publish and to disseminate research results is preserved

Consistent with current University policies, there should be no limits placed on the freedom to publish, except for short periods of delay that permit a sponsor to comment or to permit filing of patent applications.

E. Licensing agreements require thorough review

If the principal investigator has a financial interest in the sponsoring entity, justification for granting of an exclusive license to the sponsoring entity will require careful review to ensure that the best interests of the public and the University are served. This review should be coordinated with the Patent Administrator for consideration in negotiations concerning patent rights.

F. University facilities and resources are used appropriately

As is currently the policy, University resources—supplies, equipment, and facilities, as well as staff time—must not be used for the benefit of the outside entity without proper compensation.

III. Procedures for conduct of committee review

Review committees should be guided by the following practices and apply them as appropriate.

A. **Assure adherence to relevant University policies, guidelines, and regulations**

These policies are identified; summarized, and paraphrased in the Business & Finance Bulletin G-39, Conflict of Interest Policy and Compendium of Specialized University Policies, Guidelines, and Regulations Related to Conflict of Interest.

B. **Consider, to the extent possible, the nature and extent of the financial interest in the relationship of the principal investigator to the sponsoring entity**

In addition, to the extent possible, the potential financial effects of the research both on the sponsor and on the principal investigator should be considered.

C. **Give special consideration to:**

1. Conditions of research agreements which involve:
 - a. The testing of a sponsor's products or inventions;
 - b. Research conducted in the sponsor's facilities;
 - c. Research performed jointly with an employee or agent of the sponsor; or
 - d. Research involving the provision of proprietary information from the sponsor.
2. The relationship between the principal investigator and the sponsor when the principal investigator has:
 - a. A significant ownership interest in the sponsor;
 - b. The opportunity to receive substantial financial benefits from the sponsor (e.g. bonuses, stock options); or
 - c. A long term or ongoing consulting relationship with the sponsor.

D. Obtain additional information from the Principal Investigator when necessary

Since committees may find it useful to get more information from the principal investigator than is covered in the Statement of Economic Interests, Form 700-U, a sample form is provided (entitled the Principal Investigator's Addendum to Statement of Economic Interest) which includes possible questions and also advice to the principal investigator about the purpose of the request and its legal status.

In the event that such a sample form, or the like, is utilized, it must contain a privacy statement.

E. Apply the principles set forth in II above:

Some questions which might be considered when appropriate are:

1. Do the facts and circumstances suggest that the principal investigator's financial involvement with the sponsoring entity will in any way affect or impair the conduct of the research in accordance with the applicable University policies and the highest professional standards?
2. How will the interests of the University be maintained in consideration of the principal investigator's interest in the sponsor?
3. Will the research project lead to the advancement of knowledge rather than to routine testing of primary benefit to the sponsor?
4. How will this research project contribute to the University's mission of teaching, research, and public service?
5. Do the potential public benefits to be gained from undertaking this research outweigh any potential erosion of academic freedom, collegiality, or public trust?
6. Are the best interests of the University and the public served by granting an exclusive license to the sponsor?

F. Make a recommendation providing the necessary documentation and indicating:

- Acceptance of the gift or grant.
- Non-acceptance of the gift or grant.
- Modification, specifying what modifications need to be made, or what conditions need to be imposed.

Attachment to Guidelines

Sample Form

**PRINCIPAL INVESTIGATOR'S
ADDENDUM TO STATEMENT OF ECONOMIC INTEREST**

Campus _____

Principal Investigator _____
NAME DATE

Research Project _____

Proposed Sponsor _____

Introduction

(Include here information about the research process on the campus for review of disclosures of financial interest; reasons additional information is needed; and any other relevant information.)

Request for Information (recommended questions)

1. Describe the nature of your financial interest in the sponsor, such as your responsibilities as a director, officer, partner, trustee, employee, consultant, ownership interest including actual or promised options or convertible securities or loans, and the relationship between that interest or position and this research project. Please indicate if there are any written agreements between you and the sponsor.
2. Describe to the extent possible the potential financial effect of this project on the sponsor.
3. Explain if you separately, or along with your spouse, registered domestic partner, or dependent children, own 10% or more of the entity sponsoring this research project.

4. Describe your role in the research program of the sponsoring entity.
5. Describe in some detail if the research project involves:
 - a. testing;
 - b. licensing or other approval of any product or device by a governmental agency; or
 - c. development of any product or other device of potential economic value to the sponsor.
6. Explain how the research will lead to the extension of knowledge, to an increased effectiveness in teaching, or will provide a public service.
7. Provide funding information about the project:
 - a. Is the sponsor funding the full cost of the project?
 - b. If other funding sources are involved in this research project, please indicate who they are and the dollar value of their support.
 - c. Will the University be contributing to this project, either by supporting faculty or other salaries, or by directly providing supplies, equipment, or facilities?
8. Describe any participation of the sponsor in deciding the direction of the research, once begun.
9. Describe the role of students in the research project.
10. Indicate whether selection of topics for students will be restricted by commercial considerations.
11. Describe how the terms of your relationship with the sponsor could affect the free exchange of ideas, information, and materials among students and faculty.

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12. Describe how the terms of your relationship with the sponsor could affect publication or other dissemination of research results by faculty or students involved in the project.
13. Indicate whether the contract, grant, or gift funding this research will require the granting of an exclusive license to the sponsor.
14. Indicate whether the sponsor will be providing any proprietary data for use on the project.
15. Indicate whether possession of proprietary data will require controls on access to the research data. Please describe any such requirements.

(Please include any additional information that may be of use to the committee in reviewing the proposal, including any background documentation about the development of the project, related research interests, negotiations or other correspondence with the sponsor, and a proposed budget if one has not already been submitted.)

SIGNATURE

DATE

Privacy Statement¹

The State of California Information Practices Act of 1977 (effective July 1, 1978) requires the University to provide the following information to individuals who are asked to supply information about themselves: The principal purpose for requesting the above information is to accomplish the independent and substantive review of positive financial disclosures as required by the Policy on Disclosure of Financial Interest in Private Sponsors of Research (Revised April 29, 2010). University policy and State law authorize maintenance of this information. Submission of this information is mandatory. The consequences of not providing all or any part of the requested information could be nonacceptance of your award from the proposed sponsor. The information is a public record under University policy and State law. Individuals have the right to review their own records in accordance with Academic Personnel Manual, Section 160. Information about this records policy may be obtained from the campus or Office of the President—Office of Academic Affairs. The officials responsible for maintaining the information collected on this form are the (appropriate campus officer) and the Provost and Executive Vice President—Academic Affairs.

¹ This statement must be included in the form.