

MSU Billings

Personnel Procedures

POLICY REFERENCE: **Conflict of Interest**

OTHER REFERENCES: Board of Regents' Policy 770, Standards of Conduct Code of Ethics, Title 2, Chapter 2, Part 1, MCA.

DATE ADOPTED/REVISED: 10/08/08

100. INTRODUCTION

The administration, faculty, and professional staff of Montana State University Billings (hereafter, MSUBillings or "the University") are committed to fulfilling the University's teaching, research, and service mission with integrity and in full compliance with state and federal ethics and conflict of interest laws and regulations and with Montana Board of Regents Policy. Pursuit of the mission often involves sustained interaction and activities of University employees with business, government, and community groups, as well as not for profit groups, professional societies, other academic institutions (public and private), and other individuals and organizations.

These interactions and activities create the potential for conflicts of interest to arise. A conflict of interest may exist whenever an employee's work responsibilities, actions or decisions may be influenced by considerations of personal or financial gain through activities, contracts, or engagements undertaken by the employee with non University entities. Such conflicts, real or apparent, can undermine public and professional confidence in the system, diminish its ability to accomplish its mission, and violate state or federal law.

The existence of a conflict of interest does not necessarily mean that the activity at issue violates law or must be avoided or discontinued; often, conflicts of interest can be dealt with effectively through disclosure and other steps to resolve or manage the conflict. Thus, an integral part of this policy is the disclosure and management system detailed in sections 300 and 400 below.

This Policy is intended to enable employees to recognize potential conflicting interests and, thus, to protect themselves and the University from such conflicting interests through disclosure, evaluation, and, if required, management or elimination of conflicts of interest.

200. DEFINITIONS

210. Conflict of Interest. A Conflict of Interest occurs when:

- A University employee has a personal interest that is inconsistent or incompatible with the employee's obligation to the University to exercise the employee's best judgment in pursuit of the interest of the University and its students;
- A non University activity (e.g. working for another employer) unreasonably encroaches on the time an employee should devote to the affairs of the University; or
- An employee's non University activities unreasonably impinge on or compromise the loyalty or commitment to the employee's University duties and responsibilities.
- The employee's relative gain or uses equipment or other monetary items the employee

receives from their position at MSU Billings.

- While engaging in sponsored research, an Investigator's personal interest could directly and substantially affect, or has directly and substantially affected the design, conduct, or reporting of the research.

In determining whether a Conflict of Interest exists, an important consideration is whether an independent observer might reasonably question whether the employee's professional actions or decisions are influenced by considerations of personal gain, financial or otherwise.

220. Significant Financial Interest. Anything of monetary value, including but not limited to, equipment, supplies, salary or other payments for services (e.g., consulting fees, deferred payments or honoraria); ownership interests (e.g., stocks, stock options or other ownership interest); and intellectual property rights (e.g., patents, copyrights and royalties from such rights). Significant Financial Interest also includes the interests of the employee's immediate family. The term **does not** include:

- An equity interest that when aggregated for the employee and the employee's Immediate Family, meets **both** of the following tests: has a value of \$10,000 **or less** as determined through reference to public prices or other reasonable measures of fair market value, **and** represents a five percent **or less** ownership interest in any single entity.
- Annual salary, royalties, or other payments that when aggregated for the employee and the employee's immediate family amount to \$10,000 **or less** over 12 months.
- Salary, royalties, or other remuneration received from or through the University.
- 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.
- A financial interest arising solely by reason of investment in a business by a mutual, pension or other institutional investment fund over which the employee does not exercise control.

230. Investigator. Principal Investigators and any other MSU Billings employees who are responsible for the design, conduct, or reporting of sponsored research.

240. Immediate Family. The employee's spouse and dependent children.

250. Relative. "Relative," means parent, grandparent, great-grandparent, child, grandchild, great-grandchild, brother, sister, aunt, uncle, niece, nephew, or cousin, by blood relationship; spouse; or brother, sister, parent, or child of spouse; or spouse of one's brother, sister, parent or child. (Sections 2-2-302 and 303 M.C.A.)

260. Sponsored Research. Research, creative activities, scholarship, training and instructional projects involving funds, materials, or other compensation from outside sources under agreement. Research in this context means a systematic investigation designed to develop or contribute to generalizable knowledge, including physical science, educational, behavioral and social science research.

300. DISCLOSURE

The key mechanism for implementation of this Policy is disclosure. Disclosure allows the University and the employee to evaluate personal interests to determine if they present potential Conflict of Interest and to take appropriate action based on the evaluation. All employees are required to comply with this Conflict of Interest Policy and to make disclosures of any potential Conflicts of Interest whenever they occur on the Conflict of Interest Disclosure Statement form.

310. Sponsored Research Disclosure. In Sponsored Research, all Investigators (including Graduate Research Assistants) must disclose Significant Financial Interests, including those of their immediate family:

- That would reasonably appear to be affected by the Sponsored Research; or
- In entities whose financial success would reasonably appear to be affected by the research.

311. Disclosure shall be made before submitting a proposal for funding on a Conflict of Interest Form included in the Transmittal Forms from the Grants and Sponsored Programs office. If Significant Financial Interest has previously been disclosed on a Conflict of Interest Disclosure form and is up to date, a copy of the most recent disclosure may be attached in lieu of a new Conflict of Interest form.

320. Disclosure. All employees must disclose the following whenever they occur:

321. The acquisition by the employee, or a member of his/her immediate family, of a Significant Financial Interest, including employment, in an entity engaged in commercial activities directly related to the employee's University responsibilities.

322. The holding of an executive or officer position in or serving as a member of the board of directors of an entity engaged in commercial activities directly related to the employee's University responsibilities.

323. An immediate family member holding an executive or officer position in or serving on the board of directors of an entity engaged in commercial activities directly related to the employee's University responsibilities.

324. The planned direct participation in a University decision, which would involve a direct benefit or detriment to:

- A relative;
- A person in whom or with whom the employee has a financial interest; or
- A person with whom the employee has a personal relationship.

325. Any financial interest of the employee or a relative in an entity involved in a University purchase or sale whenever the employee is in a position to recommend or approve the purchase or sale. Such interests must be disclosed to the Director of Business Services at MSU Billings.

NOTE: This disclosure requirement does not include textbook adoptions

when the employee is clearly identified as an author, contributor, or editor of the textbook under consideration. However, faculty members should not receive a profit as a result of recommending a specific vendor for the purchase of texts or course materials by their students, whether on line or from other sources.

326. Participation as an employee, officer, board member, or owner in an entity that has (or wishes to have) rights to intellectual property, for which the employee was an inventor or creator during your work for MSU Billings as provided in Board of Regents Policy 407 (<http://mus.edu.borpol/bor400/407.htm>).

327. The acquisition of any personal or financial interest, including employment, which creates a potential Conflict of Interest.

330. Required Disclosure. Annually, all employees (unless exempted as provided in section 333 below) must complete and submit a Conflict of Interest Disclosure Statement (Disclosure Form) as follows:

331. Disclosure Forms shall be completed and filed by October 1st, each year. In addition, a disclosure form must be filed prior to any new potential conflict of interest arising during the year.

332. The employee's signature on the Disclosure Form certifies the employee has read and understands this Policy and either (1) the employee does not have any interests which require disclosure, or (2) the employee has appropriately disclosed any interests which create a potential conflict of interest.

333. The following groups of employees are exempt from the annual disclosure obligation (although they remain obligated to make disclosures under sections 310 and 320 above):

- Employees working less than .05 FTE; and
- Classified Employees

340. Disclosure Submission. All Disclosures forms shall be submitted to the Human Resources office. A copy of each form containing a disclosure will be forwarded to the appropriate Vice Chancellor, Chief Information Officer or Chancellor by Human Resources.

350. Optional Conflicts Management Plan Submission. Any of the above disclosures may be accompanied, at the employee's option, by a proposed conflict management plan.

400. DISCLOSURE REVIEW AND DISPOSITION

410. **Initial Review.** Each form containing a disclosure will be reviewed by the appropriate Vice Chancellor, Chief Information Officer or Chancellor, in consultation with the Human Resources office, to determine if any conflicts exist.

420. **Waiver of Conflict.** If a conflict is determined to exist, the appropriate Vice Chancellor, Chief Information Officer or Chancellor in consultation with the Human Resources office, may waive the conflict and the need for a conflict management plan if they make the following written determinations:
- The conflict of interest is so remote there is no significant probability for bias or undue influence on the employees University duties and responsibilities; or
 - Any resolution of the conflict other than by disclosure and waiver would be ineffective or inequitable and the conflict is not prohibited by state or federal laws or regulation.
430. **Conflict Management.** If a Conflict of Interest exists and can't be waived, the appropriate Vice Chancellor, Chief Information Officer or Chancellor, in consultation with the employee, the responsible Dean or Director, the Human Resources office and any others deemed helpful in assessing the situation, will develop a written conflict management plan to manage, reduce, or eliminate the potential for conflict of interest.
431. The conflict management plan may employ strategies including, but not limited to, the following:
- Public disclosure of the Significant Financial Interest;
 - Monitoring of the relevant employment duties (including research) by independent reviewers;
 - Modification of duties of the employee;
 - Disqualification from participation in the conflicting employment activity, such as search committee, procurement, student advising, or employee supervision;
 - Divestiture of the conflicting interest; or
 - Severance of the relationship that creates the Conflict of Interest.
432. Whenever a decision is made to manage rather than eliminate the conflict of interest, the appropriate Vice Chancellor, Chief Information Officer or Chancellor shall prepare a written statement explaining why management is in the best interest of the University. Such statement may be included in the conflict management plan. This statement will be kept on file in the Human Resources office.
433. Relevant questions to consider in designing an appropriate conflicts management plan include, but are not limited to:
- What is the scope and magnitude of the financial interest?
 - What is the level of incentive created by the interest?
 - How direct is the link between the interest and the duties of the employee?
 - Could the conflict adversely affect MSU Billings' students?
 - Could the conflict unreasonably interfere with the employee's commitment to University responsibilities?

500. APPEAL PROCEDURE

510. **Appeal to the Chancellor.** If an employee believes the conditions or restrictions in the conflict management plan are inappropriate, the employee may appeal the decision to the Chancellor of MSU Billings. The Chancellor's decision on the appeal shall be the final decision for the University. The Chancellor's decision is not grievable.
520. **Conflict Review Committee.** If the Appropriate Vice Chancellor or Chancellor wishes to have the benefit of advice from a Conflict Review Committee, the Appropriate Vice Chancellor or Chancellor shall appoint a three member committee. The members shall include employees or community members who have had no involvement in the decision being appealed and who have relevant experience or training to assess the conflict.
530. **Montana University System Appeal.** An employee who disagrees with the final decision of the Chancellor may appeal further as provided in the Board of Regents Appeal Policy, 203.5.2.

600. COMPLIANCE, REPORTING AND RECORD RETENTION

The Human Resources office at MSU Billings shall be responsible for maintenance of all disclosure and conflict management records for the period of time required by state and federal laws and regulations. Records will be maintained in a manner to protect sensitive and confidential information consistent with state and federal law. The Human Resources office will submit an annual report to the Office of Commissioner of Higher Education. All employees must comply with any training designated for compliance of Conflict of Interest by the University.

700. COMPLIANCE

710. MSU Billings requires all employees to comply fully and promptly with all requirements of this Policy. Breaches of this Policy include, but are not limited to: intentionally filing an incomplete, erroneous, or misleading disclosure form; failure to provide additional information as required; failure to provide a disclosure form as required by this Policy; failure to remedy conflicts of interest; or failure to abide by a conflict management plan.
720. A violation of this policy may be the basis for discipline of an employee. (Such discipline will be imposed consistent with the discipline policies and procedures applicable to the particular employee collective bargaining agreement, Personnel Policies and Procedures Manual). Potential sanctions may include, but are not limited to, the following: letter of warning, removal or suspension of privileges related to the violation, suspension without pay or Termination