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## **I. POLICY SUMMARY**

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The University of California is concerned about maintaining an atmosphere of integrity in which knowledge is sought and transmitted. Conflicts of interest erode such an atmosphere and are detrimental to its credibility. Accordingly, these policies and guidelines are established to assure that Division activities are conducted in an atmosphere of integrity.

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## **II. DEFINITIONS**

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## **III. POLICY TEXT**

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### **A. Policy**

The policy of the University is that none of its academic appointees, staff personnel, managers, or officials (employees) shall engage in any activities that place them in a conflict of interest between their official activities and any other interest or obligation.

Although the basic and most effective safeguard against conflicts of interest is the integrity of individual University staff members, even the most alert and conscientious person may at times be in doubt concerning the propriety of certain actions and relationships. Accordingly, a variety of implementing policies, regulations, and guidelines have been developed to provide guidance. These are set forth in the ["Compendium of Specialized University Policies, Guidelines, and Regulations Related to Conflicts of Interest,"](#) issued by the President. The following sections are set forth for particular guidance to Division staff members. Questions concerning conflicts of interest may be addressed to the Controller & Business Services Director.

### **B. Non-University Activities**

Policies on consulting and other non-university activities engaged in by staff are set forth in Section 345 of this Handbook. These policies, while developed primarily for academic staff, are also fully applicable to all employees where pertinent.

### **C. Political Reform Act Disqualification Requirements**

The California Political Reform Act of 1974 declares that "No public official at any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest." All University staff are subject to the provisions of this act. Every staff member, therefore, must be aware of what is meant by making or participating in making a decision, what constitutes a conflict of interest, how to disqualify oneself, and what would happen if one does not disqualify oneself.

1. Decision-making

The meaning of "decision-making" within the scope of the act is basic given that disqualification is required if there is a conflict of interest. A decision is made when, acting within the authority of a position, one:

- a. Votes on a matter;
- b. Appoints a person;
- c. Obligates or commits the University to any course of action;
- d. Enters into any contractual agreement on behalf of the University; or
- e. Determines not to act, within the meaning of the four items above, unless such determination is made because of personal financial interest.

2. Participating in Decision-making

One participates in the making of a decision when, acting within the authority of one's University position, one:

- a. Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or
- b. Advises or makes recommendations to the decision-maker, either directly or without significant intervening substantive review, by:
  - i. Conducting research or making any investigation that requires the exercise of judgment on one's part and the purpose of which is to influence the decision, or
  - ii. Preparing or presenting any report, analysis, or opinion, orally or in writing, that requires the exercise of judgment on one's part and the purpose of which is to influence the decision.

3. Academic Exemption

The following decisions are excluded from the financial disclosure and disqualification requirements of the act.

- a. Teaching decisions, including the selection by teachers of books or other educational materials for use within their own school or institution, and other decisions incidental to teaching.
- b. Decisions made by a person who has teaching or research responsibilities at a school, college, or university to pursue personally a course of academic study or research, to apply for funds to finance such a project, to approve or sponsor an application by another person for funds to finance a research project, to approve the allocation of financial and material resources for academic study or research, and all decisions related to the manner in which such study or research is conducted. Provided, however, that this section shall not apply with respect to any decision made by a person, in the exercise of institution- or

campus-wide administrative responsibilities, respecting the approval or review of any phase of academic research or study conducted at that institution or campus.

#### 4. Economic Interest

A Statement of Economic Interest (Form 730U) must be filed whenever a gift or private grant of \$250 or more is received for support of a research project. See Section 206 for details.

#### 5. Disqualification Requirement

A financial conflict of interest occurs when an employee has a financial interest in a University decision. There is a financial interest if one can reasonably foresee that the decision will have a material financial effect, distinguishable from its effect on the public generally, on oneself or a member of one's immediate family or on:

- a. Any business operated for profit in which one has a direct or indirect investment worth \$1,000 or more;
- b. Any real property, located in California, in which one has a direct or indirect interest worth \$1,000 or more;
- c. Any source of income (other than loans made in the regular course of business by a commercial lender) totaling \$250 or more in value one received or was promised within twelve months before the decision is made;
- d. Any business entity in which one is a director, officer, partner, trustee, employee, or holds any management position; and/or
- e. Any donor of, or any agent for a donor of, a gift or gifts, totaling \$250 or more in value received by or promised to oneself within 12 months prior to when the decision is made.

In relation to the above, one has an indirect investment or interest if the investment or interest is owned by one's spouse or dependent child, by a trust, by a business in which one or one's spouse or child holds a 10% or greater ownership interest, or by any agent acting for one. If one has a financial conflict of interest according to the criteria listed, one must disqualify oneself from making or participating in the making of a decision. If, in any specific instance, one is not sure one should so disqualify oneself, the Assistant Vice President--Administration should be consulted.

The buying, selling and/or trading livestock, crops or other commodity transactions are sources or potential sources of income subject to the disqualification requirement (see 3. above). Income does not include:

Dividends, interest or any other return on a commodity future registered with the Commodity Futures Trading Commission of the United States, except

proceeds from the sale of the commodity futures;

Proceeds from the sale of commodities futures registered with the Commodities Futures Trading Commission of the United States Government if the employee sells the commodities futures on a commodities exchange and does not know or have reason to know the identity of the purchaser.

If employees become involved in trading agricultural or other commodities or futures contracts that are related to their job and one is not sure if one should disqualify oneself, the Controller & Business Services Director should be consulted.

#### 6. How to Disqualify

If one determines that one's financial interests require disqualification from making or participating in making a University decision, one must notify the Assistant Controller & Business Services Director, the Special Program or Regional Director, and immediate supervisor, briefly stating the reasons. The supervisor is responsible for having the disqualification statement placed in the individual's personnel file and shall reassign the matter to another staff member and record the name of the substituted staff member with all copies of the disqualification statement. One must then refrain from participating in any way in the decision and must not use the official position to influence any other person with respect to the matter.

#### 7. Sanctions for Violations

All employees of the University have an obligation to avoid any conflict of interest in their official acts. The Political Reform Act itself provides for legal remedies for violations. Violators may be:

- a. Prosecuted for a misdemeanor and, if convicted, fined (Gov. Code Section 91000);
- b. Found liable in a civil action (Gov. Code Section 91005.5); or
- c. Enjoined or compelled to comply with the disqualification provision of the Act in an injunctive action brought by any person living in California (Gov. Code Section 91003).

### **D. Acceptance Or Offering Of Gifts And Gratuities**

As a public institution and a custodian of public funds, the University is concerned that there are safeguards against any appearance of favoritism in its relations with other entities, either public or private. To avoid any such appearance of favoritism, no officer or employee should accept any gift or gratuity from any source that is offered or appears to be offered because of the University position held by the officer or employee, nor should an officer or employee extend an offer of a gift on a similar basis.

For the purposes of this policy, the term gift or gratuity means any payment to the extent that consideration of equal or greater value is not received. The term gift or gratuity does not include the following:

1. Information or material such as books, reports, pamphlets, calendars, periodicals, or other unsolicited promotional material.
2. Modest entertainment, such as a meal or refreshments, in connection with attendance at professional meetings and similarly sponsored events by industrial, technical, professional, or educational associations, or at public ceremonies in an official capacity.

#### **E. Selection Of Consultants**

In the selection of an independent consultant, there is opportunity for conflicts of interest to arise. Accordingly, this section sets forth the applicable policies so that the possibility of conflicts or appearance of conflicts may be minimized. The selection of people or organizations to serve as independent consultants to the Division is governed by policies set forth in Section 204. The following general policies apply:

1. Arrangements to secure the services of an independent consultant may be entered into only when a determination has been made that the services are so urgent, special, temporary, or highly technical that they cannot be performed economically or satisfactorily by existing University staff.
2. The use of an independent consultant is expected to be infrequent and is used primarily to solve clearly delineated problems.
3. An independent consultant shall not be used to carry out a major portion of a program. Persons responsible for directing a program or participating extensively in one must be employed through the normal employment process.
4. Where there is any likelihood that a proposed agreement may result in an employer-employee relationship, the matter must be referred to the Director of Personnel Services and the Assistant Vice President -- Administration, who will review it in consultation with the General Counsel. If it is determined that an employer-employee relationship will exist, the proposed agreement will have to be processed as an employment through appropriate personnel channels. An employer-employee relationship exists when the University has the right (whether or not it exercises the right) to supervise and control the means of performance, as well as the result of the service.
5. The services of an independent consultant shall not entitle him or her to credit other than as a "consultant" in any published report or other document.
6. An independent consultant shall not hire any employee of the University to perform any service covered by the agreement. If the work is in connection with a Federal contractor grant, an independent consultant shall not hire any employee

of the U.S. government to perform any service under the agreement.

7. The laws and regulations applicable to UCRS and PERS do not prohibit a retired member of UCRS or PERS from providing services as an independent consultant.
8. Proposals for contracting for an independent consultant must contain the name and University position of any officer, faculty member, or other employee of the University, or any near relative of such person, who has a controlling proprietary relationship with or interest in the consulting organization.

Any officer, faculty member, or other employee, or near relative of such person, who alone or in combination with any other member or near relative, owns or controls 10% of the shares or other evidences of ownership of any such consultant organization shall be deemed to have a controlling proprietary relationship with, or interest in, such enterprise. A near relative is: husband, wife, mother, father, daughter, son, sister, brother, and step-relatives and in-laws in the same relationship.

9. If the amount of payment by the University to an independent consultant is expected to equal \$15,000 or more in any twelve-month period, the person requesting the consulting arrangement shall, whenever possible, solicit proposals from three or more qualified independent consultants. When competitive proposals are not solicited, the reason for not seeking competition shall be documented.

#### **F. Employee-Vendor Relationships**

1. It is the policy of the University to separate an employee's University and private interest, and to safeguard the University and its employees against charges of favoritism in acquisition of goods or services.
2. The California Political Reform Act of 1974 prohibits an employee from making or participating in making a decision if there exists a financial conflict of interest. Requirements governing such decision-making are set forth in section III and in the University's Conflict of Interest Code and shall be observed in purchase of goods and services by the University.
3. No purchases, lease of goods, or contract for services shall be made from any employee or near relative unless there has been a specific determination by the University Material Manager or designee that goods or services are not available either from commercial sources or from the University's own facilities.
4. The responsible Administrative Officer or representative, whenever necessary to ensure an understanding of facts presented, shall inspect the business premises and records of an employee-vendor or near relative-vendor from whom the University is considering acquiring goods or services.
5. Each responsible Administrative Officer is delegated authority, within constraints

imposed by the Political Reform Act, for approving exceptions to policy when there are unusual or extenuating circumstances.

## **G. Conduct Of Research**

The following excerpt from a 1964 joint statement of the American Council on Education and the American Association of University Professors illustrates the kinds of situations that may give rise to conflict of interest and has been used as a guide for the faculty of the University. It is also applicable to research conducted by Cooperative Extension staff. Some of these situations are also covered under section III above.

### **1. Conflict Situations**

Favoring of outside interests. When a University employee (administrator, faculty member, professional staff member, or other employee) undertaking or engaging in Government-sponsored work has a significant financial interest in, or a consulting arrangement with, a private business concern, it is important to avoid actual or apparent conflicts of interest between his/her Government-sponsored University research obligations and his/her outside interests and other obligations. Situations in or from which conflicts of interest may arise are the:

- a. Undertaking or orientation of the staff member's University research to serve the research or other needs of the private firm without disclosure of such undertaking or orientation to the University and to the sponsoring agency.
- b. Purchase of major equipment, instruments, materials, or other items for University research from the private firm in which the staff member has the interest without disclosure of such interest;
- c. Transmission to the private firm or other use for personal gain of Government-sponsored work products, results, materials, records, or information that are not made generally available. (This would not necessarily preclude appropriate licensing arrangements for inventions, or consulting on the basis of Government-sponsored research results where there is significant additional work by the staff member independent of his Government-sponsored research);
- d. Use for personal gain or other unauthorized use of privileged information acquired in connection with the staff member's Government-sponsored activities. (The term "privileged information" includes, but is not limited to, medical, personnel, or security records of individuals; anticipated material requirements or price actions; possible new sites for Government operations; and knowledge of forthcoming programs or of selection of contractors or subcontractors in advance of official announcements);
- e. Negotiation or influence upon the negotiation of contracts relating to the staff member's Government-sponsored research between the University and

private organizations with which he has consulting or other significant relationships;

- f. Acceptance of gratuities or special favors from private organizations with which the University does or may conduct business in connection with a Government-sponsored research project, or extension of gratuities or special favors to employees of the sponsoring Government agency, under circumstances that might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties.

## **H. Use Of University Facilities And Resources Under Contracts And Grants**

### **1. Commitment of Expenditure of Funds**

Section 264 of this Handbook sets forth the policies and procedures for obtaining and executing contracts in support of research for public service programs. Commitments or expenditures of any kind before a contract is executed are prohibited except as specifically authorized by the Assistant Vice President--Administration, in accordance with regulations of The Regents.

### **2. Testing**

University participation in tests and investigations shall be limited to activities that lead to the extension of knowledge or to increased effectiveness in teaching or public service outreach. Routine tasks of a commonplace type will not be undertaken.

University laboratories and facilities are not to be used for tests, studies, or investigations of a purely commercial character, such as the performance efficiencies of machines, analysis of soils, water, insecticides, fertilizers, feeds, fuels, and other materials, statistical calculations, etc., except when it is shown conclusively that facilities for such services do not exist elsewhere. These requiring such tests or services should apply to business firms or to such public agencies as the Department of Food and Agriculture. Commercial tests or investigations involving controversial elements may be undertaken only at the direct and unanimous request of representatives of all parties to the controversy.

### **3. Expenses**

A charge shall be made sufficient to cover all expenses, both direct and indirect, for all tests and investigations made for agencies, organizations, or individuals outside the University.

### **4. Publicity of Results**

All research conducted shall be done so as to be as generally useful as possible. To this end, the right of publication is reserved by the University. The University may publish the material or, in any specific case, may authorize the researcher to publish it through some recognized scientific or professional medium of

publication.\* A report detailing the essential data and presenting the final results must, in most cases, be filed with a supporting agency and the University. Notebooks and other original records of the research are property of the University.

5. Use of the Name of the University

California Education Code section 92000 et seq. governs the use of the name "University of California." The use of the name of the University for commercial purposes shall not be allowed.

**I. Ownership Or Operation Of A Farm Or Other Outside Business**

Any staff member who owns or acquires a farm or other business, or an interest therein, shall meet with his or her supervisor to determine if there is a potential conflict of interest, taking the actions specified in A through E below. Any new staff member who owns or has an interest in a farm or other business shall also meet with his or her supervisor and take the same action. For purposes of this policy, an "interest" includes full or partial ownership by the staff member, his or her spouse, or dependent child.

1. Determine the staff member's time commitments to manage, operate, or be involved in such business. If appreciable time is required away from Division responsibilities, suitable arrangements need to be made (i.e., reduced time and pay agreements, business divestiture, or staff member termination).
2. If there appears to be a conflict of interest, the matter should be referred to the Regional Director or Assistant Director--Programs for review and possible approval (if the staff member is a County Director, the matter should be referred to the Associate Vice President-- Programs).
3. Arrange that the time spent on such business is done on the staff member's own personal time (i.e., weekends, vacation, or other approved leave) and that it be clearly documented.
4. Determine that the type of business does not unfairly compete with similar private business. For instance, does the staff member have an unfair advantage over private business because of special Cooperative Extension-related knowledge he or she may have?
5. A record should be made of the discussion and agreements, and a copy sent to the Regional Director or Director of Personnel Services for inclusion in the staff member's personnel file.

**J. Holding Elected Or Appointed Public Office**

Holding elected or appointed public office may create a potential conflict of interest. Before a staff member seeks public office, the matter should be discussed with his or her supervisor, and the following points taken into account.

1. The time required to carry out the public office assignment is done on the staff member's own time. If a reduced work schedule is needed, a request for partial leave without pay must be submitted to your supervisor for approval.
2. Verify that Cooperative Extension materials, facilities, and staff time are not used in running the election campaign or in serving in the public office.
3. Verify that the staff member's position is not used to influence political activity or that the staff member's position is not compromised relative to carrying out an educational program with all possible clientele segments.
4. A record should be made of the discussion and agreements, and a copy sent to the Regional Director or the Director of Personnel Services for inclusion in the staff member's personnel file.

*In some instances, where information generated by Division research is deemed useful to the public, the Division may require timely publication of research results in a Division publication.*

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## **IV. PROCEDURES**

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## **V. RELATED INFORMATION**

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- UC Business and Finance Bulletin G-39, [\*Conflict of Interest Policy and Compendium of Specialized University Policies, Guidelines, and Regulations Related to Conflict of Interest\*](#)

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## **VI. FREQUENTLY ASKED QUESTIONS**

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## **VII. REVISION HISTORY**

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