

DISCUSSION DRAFT – 4/2/18

As set forth in the Conflicts of Interest (“COI”) Policy, University of Oregon employees, officials, and agents must report all non-exempt outside activities so that the University can make a determination of whether an actual, apparent, or potential COI exists and, if appropriate, help manage that COI. The following procedures outline the disclosure process and the review, approval and management of COI.

These procedures in no way alter the requirements contained in the [Financial Conflict of Interest in Research Policy](#). Thus, University employees, officials or agents with outside activities that involve design, conduct, and reporting roles in sponsored research will likely be required to provide both disclosures.

I. ACCOUNTABILITY

Failure to comply with the COI Policy includes, but is not limited to, failure to disclose a known non-exempt outside activity, or failure to abide by the terms of a finalized management plan.

II. DISCLOSURE PROCESS**A. Annual Outside Activity (“AOA”) Disclosure**

1. Each year, employees shall submit an AOA disclosure. Subsequent AOA disclosures must include any activity governed by the COI Policy that was not disclosed in prior disclosures.
2. New employees: All employees engaging in non-exempt outside activities shall submit an AOA disclosure annually—within 30 days of the date of hire and on the anniversary of that date. Before engaging in new, non-exempt outside activities, employees must supplement the AOA disclosure.
3. Current employees: The Provost or designee will send notification to all employees to submit an AOA disclosure. All employees engaging in non-exempt outside activities shall submit an AOA disclosure annually—within 30 days of receipt of the Provost’s notification and on the anniversary of that date.
4. AOA disclosures should be completed online at: _____.
5. For questions involving the AOA disclosures please contact createaccount@uoregon.edu.
6. The failure to report is construed as a representation by the employee that the employee is engaged in no outside activities that give rise to any actual, apparent, or potential COI.

41 **B. Required Disclosures**

42 **a. Exempt Activities Unrelated to University Employment**

43 Pursuant to the COI Policy, employees are generally not expected to disclose outside activities
44 unrelated to their University employment. For example, the following would be exempt from
45 the advance disclosure and approval requirements of this policy:

- 46 ○ College of Arts & Sciences faculty with outside yoga business (unless it is related
47 to their University employment because, for example, the faculty member
48 solicits University students to attend the yoga class);
- 49 ○ Housing employee who runs youth baseball camps (unless it is related to their
50 University employment because, for example, the employee uses access to
51 University resources to bolster camp enrollment);
- 52 ○ Employee invests in mutual funds or retirement accounts and does not directly
53 control the investment decisions made in these accounts.

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55 **b. Exempt Activities Related to University Employment**

56 Pursuant to the COI Policy, employees are generally not expected to disclose professional,
57 religious or political associations, appearances related to University employment, and expert
58 witness service related to their academic or professional work, including, for example:

- 59 • Professional associations
 - 60 ○ Participation in scholarly, professional, expressive (including performances), and
61 philanthropic activities outside the University (This includes publications and the
62 sale of goods, unless the material is prepared in compliance with University
63 contractual provisions, as a specific University work assignment, or with the use
64 of significant University resources.)
- 65 • Appearances related to University employment
 - 66 ○ Seminars, lectures, or teaching engagements sponsored by a federal, state or
67 local government agency, an institution of higher education, an academic
68 teaching hospital, a medical center, or a research institution affiliated with an
69 institution of higher education;
 - 70 ○ Travel to other institutions or conferences for the purpose of:
 - 71 ■ giving speeches, presentations, lectures, performances, etc.;
 - 72 ■ serving as a panelist;
 - 73 ■ leading seminars or workshops;
 - 74 ■ visiting the laboratories of colleagues.
- 75 • Service as an expert witness before a court or tribunal

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78 **C. Initial Review of AOA Disclosure**

- 79 1. The Provost or designee(s) will conduct an Initial Review of AOA disclosures to
80 determine whether the information disclosed presents a matter for further review.
81 Pursuant to the COI Policy and state law, ORS 352.232, to make this determination,
82 the Provost or designee(s) will consider whether the activity disclosed may present
83 an actual, apparent, or potential conflict of interest, whether the activity may not
84 comport with the mission of the University, and whether the activity may
85 substantially interfere with an employee’s duties to the University.
86 2. The Provost or designee(s) will notify the employee if an AOA disclosure reflects a
87 matter for further review. That determination will be documented.
88 3. If the Provost or designee(s) determines that the AOA disclosure may require
89 approval and/or a management plan, the disclosure constitutes a matter for further
90 review. The Provost or designee(s) will forward AOA disclosures requiring further
91 review to the COI Committee to further review the matter for consideration of steps
92 to eliminate, reduce, or manage the conflict(s). If appropriate, the Provost or
93 designee(s) will, with notice to the employee, develop a draft management plan to
94 be reviewed by the COI Committee.
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96 **III. COI COMMITTEE REVIEW AND APPROVAL PROCESS**

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98 Reviews by the COI Committee will be conducted by a preponderance of evidence standard.
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100 **Timelines**

101 The COI Committee will review AOA disclosures that reflect matters for further review. The COI
102 Committee will conduct its review based on, among other factors, the date of the disclosure,
103 the likelihood of COI and the need to institute a management plan or sever the outside
104 relationship to avoid a violation of law or UO policy. The COI Committee will complete its
105 review within 60 days; however, this timeframe may be extended for good cause.
106

107 **Criteria for Approval**

108 In conducting the review, the COI Committee will consider whether the activity disclosed
109 presents an actual, apparent, or potential conflict of interest, whether the activity comports
110 with the mission of the University, and whether the activity substantially interferes with an
111 employee’s duties to the University.
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113 In determining the appropriateness of a management plan, the COI Committee may also
114 consider whether the activity is significant (including time commitment and responsibilities),
115 relatedness to University employment (including likelihood of interference with employee
116 objectivity, integrity, and duties to the University, impact on the University, and consistency
117 with the policies and objectives of the University), and adequacy of mitigation measures
118 (including disclosure to supervisor, informed consent, and screening and/or recusal options).

119 In developing a management plan, the COI Committee will consult with the employee and, as
120 appropriate, with the employee's supervisor. The management plan, once finalized, will reflect
121 appropriate management of the conflict. The management plan, once finalized, will be adopted
122 by the Provost or designee(s) responsible for reviewing AOA disclosures.

123 The Provost or designee(s) will be responsible for notifying the employee when the
124 management plan is finalized. The employee must comply with the terms of the finalized
125 management plan. Examples of conditions that may be created by a management plan include:

- 126 a. Public disclosure of actual, apparent, or potential COI
- 127 b. Disclosure of COI directly to individuals or entities impacted
- 128 c. Periodic monitoring of the scope and impact of the activity, including
129 updates from the employee
- 130 d. Recusal from University recommendations or decisions that may be directly
131 and significantly impacted by the outside activity
- 132 e. Adoption of an interim or modified management plan as circumstances
133 change

134 All reviews, recommendations, denials, modifications and/or management plans shall be made
135 by following the applicable state ethics law, the University's COI Policy, and these procedures.

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137 **Appeals**

138 An employee may challenge a decision by Provost or designee(s) by filing a written appeal with
139 President or designee(s) within ten (10) days of receipt of the decision. The appeal must include
140 a copy of the decision, the grounds for appeal, the issue in dispute, a full statement of the
141 employee's position related to the grounds for appeal, and any documents supporting the
142 employee's claim.

143 **Decisions subject to appeal**

144 An employee may appeal a final, written decision:

- 145 (1) that the activity does not comport with the mission of the University;
- 146 (2) that the activity substantially interferes with an employee's duties to the University;
- 147 (3) that the activity cannot be appropriately managed; or
- 148 (4) setting forth a finalized management plan.

149 **Grounds for appeal**

150 The request for appeal must identify the decision being challenged and state one of the
151 following grounds for appeal:

152 Procedural error: Failure to comply with the COI Policy and these procedures, such as failure to
153 consult with the employee in the development of a management plan, that would more likely
154 than not (by a preponderance of evidence) have changed the outcome of the decision;

155 Unreasonable based on the evidence: The decision that the outside relationship must be
156 severed, or the management plan, is unreasonable based on the evidence provided, such as
157 undue hardship to the employee;

158 New information: New information not previously known to the employee would more likely
159 than not change the decision.

160
161 President or designee will notify the employee within 10 days whether the employee has stated
162 grounds for appeal. If President or designee determines that the employee has failed to state
163 grounds for appeal, the decision is deemed final.

164 If President or designee determines that the employee has stated grounds for appeal, President
165 or designee will notify the employee of the anticipated appeal decision date, which will be
166 within 60 days of the appeal.

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168 Before the decision date, President or designee will provide the employee the opportunity to
169 present evidence and to be heard, in person, by telephone, or in writing, at the discretion of
170 President or designee. President or designee may also consult with the COI Committee, the
171 Provost or designee(s), and/or the employee's supervisor or department head as appropriate.
172 If President or designee will rely upon information other than that submitted by the employee,
173 the employee will have the opportunity to review the information to be relied upon and to
174 provide a supplemental response to that information. President or designee will inform the
175 employee of the deadline to provide any information to be relied upon, but all information
176 relied upon must be received by President or designee no later than two days before the appeal
177 decision date. President or designee will decide the appeal. President or designee will notify the
178 employee and Provost or designee of the appeal decision, in writing.

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180 **Management Plan**

181 **COI Committee Review**

- 182 **A. Committee Appointment and Composition:**
- 183 1. The Provost or designee(s) shall appoint a COI Committee composed of at least one
184 employee in each of the following categories: tenured faculty member, non-tenure
185 track faculty, officer of administration, classified employee, and a representative
186 from Office of the Provost. An attorney from the Office of the General Counsel shall
187 serve as an ex-officio member.
 - 188 2. The Provost or designee(s) shall designate one of the appointed members to serve
189 as a COI Committee Chair.
 - 190 3. The Provost or designee(s) shall appoint members for specific terms, generally three
191 years from the date of appointment. Successive terms are permitted.
 - 192 4. Each COI member shall complete an annual government ethics training.
 - 193 5. Each COI Committee member shall recuse themselves in any proceeding in any
194 matter before the COI Committee wherein their impartiality might reasonably be
195 questioned.

- 196 **B. Meetings**
- 197 The COI Committee shall meet monthly as necessary. A quorum is a simple majority of
198 the COI Committee. A quorum must be convened for the COI Committee to issue a
199 finalized management plan and/or to recommend that any COI cannot be managed.

200 The committee makes decisions on the basis of a simple majority of those present at the
201 meeting.

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203 **C. Responsibilities**

204 The COI Committee will review all actual, apparent, or potential COIs referred to it by
205 the Provost or designee(s). The COI Committee is responsible for:

- 206 1. Assessing actual, apparent, or potential COIs in light of the employee’s
207 institutional responsibilities.
- 208 2. Making recommendations to the Provost or designee(s) regarding management
209 of actual or potential COI. Steps of a such a plan may include, but are not limited
210 to the following examples:
 - 211 a. Public disclosure of employee’s (or relative’s) financial interest;
 - 212 b. Use of COI Committee to closely monitor the activity and assist in
213 avoiding conflicts;
 - 214 c. Recusal of the employee in any decision making involving the activities
215 described in the AOA disclosure;
 - 216 d. Restructuring of University supervisory/management by employee over
217 persons and/or activities described in AOA disclosure (e.g., limiting the
218 employees’ involvement in personnel decisions on behalf of UO;
 - 219 e. Reformulation of activities described in AOA disclosure;
 - 220 f. Divestment of personal financial interest causing the COI;
 - 221 g. Severance of those outside relationships that cannot be adequately
222 managed to prevent actual or potential COI;
- 223 3. Taking appropriate action in response to reports of concerns about COI that have
224 been forwarded to the COI Committee by the Provost or designee(s). Such action
225 may include conducting a retrospective review of circumstances and
226 recommending mitigation measures.

227

228 **IV. REPORTING CONCERNS ABOUT COI OF OTHERS**

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230 Any employee who has concerns about another employee’s potential conflict should consult
231 with Provost of designee. If, after examining the report, the Provost or designee determines
232 that a COI may exist, they shall refer the matter to the COI Committee for further evaluation
233 pursuant to the process set forth above in Section III. Anonymous reports can be made to the
234 Office of Internal Audit using its [Fraud & Ethics Hotline](#).

235

236 **V. RECORDKEEPING**

237 The University will maintain records relating to AOA Disclosures, and the University’s review
238 and response to such disclosures, for at least three years.

239

240 **VI. CONFIDENTIALITY**

241 Within the constraints imposed by state law, in order to protect privacy rights, a personally
242 identifiable request by an employee for approval, and the written disposition of that request,
243 may be part of the employee's personal record, subject to disclosure only to employees who
244 have a demonstrably legitimate need for particular information in order to fulfill their official,
245 professional responsibilities.

246 **VII. DEFINITIONS**

247 **Activity Related to the Employee's University Employment:** activity that reasonably appears to
248 be related to the employee's responsibilities to the University.

249 **Agent:** any individual performing governmental functions, which are services provided on
250 behalf of the University, as distinguished from services provided to the University. This may
251 include private contractors and volunteers, depending on the circumstances. It also can be a
252 volunteer. Volunteers are "public officials" when they are i. Elected or appointed to a
253 governing body of a public body; ii. Appointed or selected for a position with a governing body
254 or a government agency with responsibilities that include deciding or voting on matters that
255 could have a pecuniary impact on the governing body, agency or other persons; or iii. The
256 volunteer position includes all of the following: 1. Responsible for specific duties and 2. The
257 duties are performed at a scheduled time and designated place.

258 **Disclosure:** an employee's formal or explicit statement disclosing outside activity to the
259 University.

260 **Employee:** as referenced in the COI Policy and these procedures, employee refers to
261 employees, officials or agents.

262 **Entity:** a natural person capable of being legally bound, sole proprietorship, corporation,
263 partnership, limited liability company or partnership, limited partnership, profit or nonprofit
264 unincorporated association, business trust, two or more persons having a joint or common
265 economic interest, or any other person with legal capacity to contract, or a government or
266 governmental subdivision.

267 **Management Plan:** the prospective plan for COI mitigation.

268 **Preponderance of the Evidence:** proof that leads to the conclusion that the fact at issue is more
269 probably true than not.

270 **Relative:** as defined in ORS 244.020: (a) the spouse, parent, stepparent, child, sibling,
271 stepsibling, son-in-law or daughter-in-law of the employee or official; (b) the parent,
272 stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse of the
273 employee or official; (c) any individual for whom the employee or official has a legal support
274 obligation; (d) any individual for whom the employee or official provides benefits arising from
275 the employee's public employment or from whom the employee or official receives benefits
276 arising from that individual's employment; (e) a member of the employee's household.
