

 <p><b>The University of British Columbia Board of Governors</b></p>	<p><b>Policy No.:</b></p> <p style="text-align: center;"><b>97</b></p>	<p><b>Approval Date:</b> September 1992</p> <p><b>Last Revision:</b> March 2005</p>
	<p><b>Responsible Executive:</b> Vice-President, External and Legal Affairs</p>	
<p><b>Title:</b></p> <p style="text-align: center;"><b>Conflict of Interest and Conflict of Commitment</b></p>		
<p><b>Background &amp; Purposes:</b></p> <p>The University of British Columbia is responsible for the advancement and dissemination of knowledge. As such, it encourages its faculty and staff to seek and participate in research, to consult widely, and to engage in Non-University Activities so long as such activities do not interfere with their obligations to the University. While the University recognizes that such activities may benefit the participants, the University, and the public at large, it is committed to ensuring that those activities are conducted in a manner consistent with the interests and mission of the University and in a way that maintains the community's trust and confidence. Faculty and staff of the University must act with integrity and adhere to the highest ethical standard at all times.</p> <p>With increased public attention on ethical conduct and conflict of interest issues in both the public and private sectors, vigilance on recognizing, disclosing and managing conflicts of interest at the University continues to be essential. In addition, new requirements from the Tri-Council agencies, the U.S. Department of Health and Human Services, and other bodies are coming into place, which emphasize conflicts of interest that may compromise the legitimate interests of human research subjects. Faculty and staff are responsible for informing themselves and complying with requirements imposed on them by all agencies and organizations from which they receive funding.</p> <p>The purpose of this Policy is to identify and address potential, actual and apparent conflicts of interest and conflicts of commitment. Faculty and staff have certain commitments to the University and must not allow outside activities or financial interests to interfere with those commitments. This Policy is intended to identify for faculty and staff of the University areas of potential conflicts of interest and conflicts of commitment, and to provide procedures whereby conflicts are disclosed and either avoided or appropriately managed. Faculty and staff of the University are expected to vigilantly guard against potential, actual and apparent conflicts of interest and conflicts of commitment, and to disclose and address any conflicts promptly.</p>		

*Defined terms are capitalized in this Policy and can be found in Section 12 at the end of this Policy.*

**1. Scope**

- 1.1. This Policy applies to all full-time and part-time members of faculty and staff of the University and any person (including students and visiting professors) who teaches, conducts research, or works at or under the auspices of the University.

**2. General**

- 2.1. Conflicts of Commitment can arise where the Non-University Activities of a Member are so demanding or organized in such a manner that they interfere with the Member's responsibilities to the University, or where a Member uses University resources for Non-University Activities. Members must disclose Conflicts of Commitment and where appropriate, obtain written approval prior to engaging in any activity that may give rise to a Conflict of Commitment.

- 2.2. Conflicts of Interest can arise naturally from a Member's engagement inside and outside the University, and the mere existence of a Conflict of Interest does not necessarily imply wrongdoing on anyone's part. However, Conflicts of Interest must be recognized, disclosed, and assessed.
- 2.3. Conflicts of Interest fall into one of two categories: those that are permissible if appropriately managed; and those that are prohibited because they cannot be appropriately managed.
- 2.4. Members are responsible for seeking guidance from their Initial Reviewers before engaging in any activity that may be questionable.
- 2.5. Except as required by judicial process or law, any information disclosed by a Member to the University pursuant to this Policy will be held by the University in confidence and will only be available to those individuals who are responsible to the University for its review, management and administration, and to funding agencies where relevant to an application for research funding to that agency.

### **3. Recognizing Conflicts of Commitment**

- 3.1. A Conflict of Commitment occurs where a Member engages in Non-University Activities that impede or compromise the fulfillment of the normal duties of his or her employment. The following activities are examples of activities which give rise to a Conflict of Commitment:
  - 3.1.1. where a Member uses any University resource for Non-University Activities, unless the use is merely inconsequential;
  - 3.1.2. where a staff Member engages in Non-University Activities during their normal work hours at the University;
  - 3.1.3. where a full-time faculty Member's total involvement in Outside Professional Activities is greater than 52 days per year, including evenings, weekends and vacations; and
  - 3.1.4. where a full-time faculty Member will be off campus for a period of 30 consecutive days (excluding holidays) as a result of the Member's Outside Professional Activities.

### **4. Recognizing Conflicts of Interest**

- 4.1. As each situation depends upon its specific facts, the University has not attempted to develop an exhaustive list of Conflicts of Interest. Rather, Members must conduct themselves at all times with the highest ethical standards in a manner that will bear the closest scrutiny. Conflicts of Interest will arise in the following situations.
  - 4.1.1. Where a Member's responsibility to instruct and evaluate students in a fair, unbiased and effective manner is or appears to be impeded or compromised. The inherent power imbalance that exists between a Member and a student must not be used for personal benefit. A Conflict of Interest exists where a Member receives a personal benefit when dealing with students.
  - 4.1.2. Where a Member (or a Related Party of the Member) has a Financial Interest in the outcome of his or her research. In the area of research, vigilance is required. The University's commitment to liaise with industry and to transfer technology, the growth of industry sponsored research, and the substantial increase in the University's interactions with outside organizations generally all lead to a corresponding increase in the potential for Conflicts of Interest. In addition, various governmental and other agencies that fund research are imposing

increasingly stringent Conflicts of Interest requirements on investigators and institutions applying for research funding. A Member must comply with this Policy and any applicable Conflicts of Interest policies imposed by other organizations, agencies or institutions.

- 4.1.3. Where a Member has influence over a decision about a proposed relationship between the University and a Business in which the Member or his or her Related Party has a Financial Interest or holds an Executive Position.
- 4.1.4. Where a Member or his or her Related Party obtains a Financial Interest or an Executive Position in a Business with which the University has an existing relationship and the Business is related to the Member's work at the University.
- 4.1.5. Where a Member is in a position to influence human resource decisions (such as recruitment, offer of employment, evaluation of performance, promotion, granting of tenure, or termination of employment) or admission decisions with respect to a person with whom the Member has a personal relationship that might reasonably be construed as a Conflict of Interest.
- 4.1.6. Where a Member uses his or her position with the University to solicit students, fellow Members, government agencies, private companies, or members of the public for Non-University Activities.
- 4.1.7. Where a Member uses information that is acquired as a result of his or her relationship with the University and not in the public domain for Non-University Activities unless the Member has proprietary rights (usually enforceable through copyright) to that information. Members should also be aware that insider trading restrictions may also apply to them.
- 4.1.8. Where a Member's obligations to a board of directors, advisory boards, or the like of an outside organization interfere with or compromise the Member's obligations to the University.
- 4.1.9. Where a Member accepts tokens of appreciation with a value of \$250 or more in connection with his or her position at the University.

## **5. Disclosing Conflicts of Commitment and Outside Professional Activities**

- 5.1. Where a Member intends to engage in any activity that may give rise to a Conflict of Commitment, whether or not that activity is within the scope of the Member's work at the University, the Member must disclose that activity and obtain the prior written approval of his or her Initial Reviewer.
- 5.2. At least annually and whenever there is a material change from the previously submitted disclosure, full-time faculty Members and recipients of Tri-Council funding (or other agencies that require annual disclosure) must disclose the extent, nature, and timing of their Outside Professional Activities and their use of University resources for any Non-University Activities.

## **6. Disclosing Conflicts of Interest**

- 6.1. In the University community, full and complete disclosure of Conflicts of Interest is a key element in protecting the integrity of Members, as well as that of the University. A Member must disclose Conflicts of Interest to his or her Initial Reviewer and to all parties affected by the Conflict of Interest.
- 6.2. Prior to commencing a research project, a Member who is an investigator must disclose all Conflicts of Interest that may arise in relation to the research project.
- 6.3. Prior to undertaking any activity that may give rise to a Conflict of Interest, whether or not that activity is within the scope of the Member's work at the University, a Member must disclose that activity. Where prior disclosure is impossible, disclosure must be made as soon as possible after commencement of the activity.
- 6.4. At least annually and whenever there is a material change, full-time faculty Members and recipients of Tri-Council funding (or funding from other agencies that require annual disclosure) must disclose any Financial Interests they or their Related Parties have in entities related to the Member's work at the University.

## **7. Role of Initial Reviewer in Approving Conflicts of Commitment**

- 7.1. Where a Member seeks approval for a Conflict of Commitment, the Initial Reviewer may, in his or her discretion, grant approval taking into consideration the following:
  - 7.1.1. whether the activity interferes with the Member's obligations to the University; and
  - 7.1.2. if so, whether the activity nonetheless contributes to or benefits the University in such a way that warrants the interference.

## **8. Role of Initial Reviewer in Assessing and Managing Conflicts of Interest**

- 8.1. When an Initial Reviewer becomes aware of a Conflict of Interest, he or she will assess the situation to determine what action, if any, is appropriate.
- 8.2. Where the Initial Reviewer determines that a proposed research project or activity is permissible as disclosed with no further action, the Initial Reviewer's determination will be recorded and Member may proceed with the proposed research project or activity, subject to obtaining all other applicable approvals.
- 8.3. Where the Initial Reviewer determines that the activity is permissible only if appropriately managed, the Initial Reviewer will develop and implement a protocol to manage the Conflict of Interest and the Member, subject to obtaining all other applicable approvals, may proceed with the proposed activity provided that he or she complies with the protocol.
- 8.4. Where the Initial Reviewer determines that the activity is not permissible, the Member must not proceed with the proposed research project or activity.
- 8.5. Where the Initial Reviewer determines that the activity is not permissible or is unable to determine whether a proposed research project or activity is permissible, the Initial Reviewer will refer the disclosure in accordance with his or her unit's internal review process or to the Committee, if the unit has no internal review process.

## **9. Internal Review Process for Conflicts of Interest**

- 9.1. A Dean, in consultation with the Office of the University Counsel, may establish an internal process within his or her faculty for the assessment of Conflicts of Interest as appropriate for his or her faculty. Generally, a level of review within each faculty is desirable to facilitate the expeditious assessment of matters and ensure awareness and vigilance to Conflicts of Interest issues by all University Members. For example, the appropriate process may commence with a disclosure being reviewed by the Head of Department (as Initial Reviewer), then referred to the Dean, and finally referred to the Committee, as necessary. A Dean may establish additional reporting requirements for faculty members in his or her faculty. Provision may be made for those cases where a Member disagrees with the assessment of the Initial Reviewer.
- 9.2. In establishing an appropriate process, the Dean should consider the following factors:
  - 9.2.1. the volume of disclosures the faculty generates; and
  - 9.2.2. the need for specialized knowledge and expertise in the academic/professional discipline to assess the Conflict of Interest.

## **10. Role of the Committee in Assessing and Managing Conflicts of Interest**

- 10.1. The Committee is charged with the following responsibilities:
  - 10.1.1. to assess disclosures of Conflict of Interest to determine whether, subject to obtaining all other applicable approvals:
    - 10.1.1.1. the proposed research project or activity is permissible as disclosed with no further action;
    - 10.1.1.2. the proposed research project or activity is permissible only if a protocol is implemented to ensure that the Conflict of Interest is appropriately managed; or
    - 10.1.1.3. the proposed research project or activity is not permissible;
  - 10.1.2. to serve as the final avenue of appeal (such as where a Member disagrees with the assessment of an Initial Reviewer or the assessment resulting from an internal process established by a Dean under Section 9.1);
  - 10.1.3. to randomly audit disclosures reviewed and determined to be permissible by Initial Reviewers and by those reviewing disclosures in accordance with the process established within a particular unit. The Committee will also periodically randomly audit the implementation of protocols as set out in Section 10.3 below; and
  - 10.1.4. to educate Members on Conflicts of Interest and Conflicts of Commitment and the application of this Policy.
- 10.2. Where the Committee determines that a proposed research project or activity is permissible as disclosed with no further action, the Member may proceed with the proposed research project or activity.

- 10.3. Where the Committee determines that a proposed research project or activity is permissible only if a protocol is implemented to ensure that the Conflict of Interest is appropriately managed, the Member may only proceed with the proposed research project or activity in accordance with the protocol.
- 10.4. Where the Committee determines that a proposed research project or activity is not permissible, the Member must not proceed with the proposed research project or activity.

## **11. Role of Office of the University Counsel**

- 11.1. An Initial Reviewer, Administrative Head of Unit or the Committee may at any time seek the advice from the Office of the University Counsel with respect to any matter pertaining to this Policy, including the establishment of a process for the assessment of Conflicts of Interest, the assessment of any disclosure and the development of appropriate protocols for managing Conflicts of Interest.

## **12. Definitions**

- 12.1. “Administrative Head of Unit” means a Director of a service unit, a Head of an academic department, a Director of a centre, institute or school, a Principal of a college, a Dean, an Associate Vice-President, the Registrar, the University Librarian, a Vice-President or the President or the equivalent.
- 12.2. “Business” means a corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust, or other legal entity organized for profit or charitable purposes, but excluding the University, an affiliated Hospital, a private medical practice, or other entity controlled by, controlling, or under common control with the University or an affiliated Hospital.
- 12.3. “Conflict of Commitment” means a situation where the Outside Professional Activities of a Member are so substantial or demanding of the Member’s time and attention as to adversely affect the discharge of the Member’s responsibilities to the University, or where the Non-University Activities of a Member involve the use of University resources.
- 12.4. “Conflict of Interest” means a situation where a Member is in a position to influence, either directly or indirectly, University business, research, or other decisions in ways that could advance the Member’s own interests or the interests of a Related Party, to the detriment of the University’s interests, integrity or fundamental mission. In the research context, Conflict of Interest includes a situation where financial or other personal considerations may compromise, or have the appearance of compromising, an investigator’s professional judgment in conducting or reporting research. Conflicts of Interest may be potential, actual or apparent.
- 12.5. “Committee” means a committee established by the University Counsel to assess disclosures and to develop and monitor protocols in situations where Conflicts of Interest are identified, and including at least one independent person who is neither a faculty nor a staff member of the University.
- 12.6. “Executive Position” means any position that includes responsibilities for a material function of the operation or management of a Business.
- 12.7. “Financial Interest” means an opportunity to receive greater than 5% ownership interest in a single entity or anything having a monetary value exceeding \$10,000 per annum, including remuneration (e.g. salary, consulting fees, retainers, honoraria, bonuses, gifts, speaker’s fees, advisory board remuneration, finders or recruitment fees), equity interests (e.g. stocks, stock options or other ownership interests), and intellectual property rights (e.g. patents, copyrights, royalties or other payments from such rights).

- 12.8. “Initial Reviewer” means the individual responsible for initially reviewing a Member’s disclosures of Conflicts of Interest or approving a Member’s Conflict of Commitment. Except as otherwise designated by the University Counsel, a Member’s Administrative Head of Unit is the Initial Reviewer.
- 12.9. “Member” means any individual who teaches, conducts research, or works at or under the auspices of the University and includes without limitation, any person acting in his or her capacity as full-time or part-time faculty or staff, or clinical faculty.
- 12.10. “Non-University Activity” means any activity outside a Member’s scope of work with the University and includes Outside Professional Activities.
- 12.11. “Outside Professional Activity” means any activity outside a Member’s scope of work with the University that involves the same specialized skill and knowledge that the member utilizes in his or her work with the University and includes the operation of a Business, consulting or advisory services and speaking engagements.
- 12.12. “Related Party” means a Member’s immediate family member (e.g. spouse, child, parent or sibling), or other person living in the same household, or any other person with whom the Member shares a Financial Interest, either directly or indirectly.

## **PROCEDURES**

**Approved: September 1992**

**Revised: March 2005**

*Pursuant to Policy #1: Administration of Policies, "Procedures may be amended by the President, provided the new procedures conform to the approved policy. Such amendments are reported at the next meeting of the Board of Governors and are incorporated in the next publication of the UBC Policy Handbook."*

### **1. Annual Disclosures and Disclosing Conflicts of Interest and Outside Professional Activities**

- 1.1. At least annually, full-time faculty Members and recipients of Tri-Council funding (or other agencies that require annual disclosure) will submit a completed report to his or her Initial Reviewer that discloses the following:
  - 1.1.1. the extent, nature, and timing of their Outside Professional Activities;
  - 1.1.2. their use of University resources for any Non-University Activities; and
  - 1.1.3. any Financial Interests they or their Related Parties have in entities related to the Member's work at the University.
- 1.2. Members will submit a completed disclosure report to his or her Initial Reviewer for each situation where disclosure or approval is required.

### **2. Assessing and Managing Conflicts of Interest and Conflicts of Commitment**

- 2.1. Each person who assesses a disclosure will complete a review report and provide a copy of the review report to the Member.
- 2.2. Without limiting the discretion of a person assessing a disclosure to consider all relevant factors, the following factors must be considered in assessing a disclosure:
  - 2.2.1. the impact on the Member's ability to satisfy his or her obligations to the University;
  - 2.2.2. the degree to which the proposed action will be detrimental to the interests of the University, or in the research context, the degree to which it may compromise an investigator's professional judgment in conducting or reporting research; and
  - 2.2.3. the extent to which the proposed action or activity may be managed through an appropriate protocol.
- 2.3. Where a person who reviews a disclosure report is unable to determine that a disclosure is permissible with no further action, the disclosure will be referred to the next level of review with a copy of the disclosure report and all review report(s).
- 2.4. Where a disclosure is referred to the Committee, the Committee will complete a Committee report for each disclosure and provide the Member with a copy of the Committee report.
- 2.5. Where the Committee determines that a management protocol is appropriate, the Initial Reviewer will monitor compliance with the management protocol.
- 2.6. Where the Committee determines that a Conflict of Interest exists, the Committee will:

- 2.6.1. provide the Responsible Executive with a copy of the disclosure report, all review report(s) and the Committee report;
  - 2.6.2. disclose the existence of the Conflict of Interest to a funding agency where relevant to an application for research funding to that agency; and
  - 2.6.3. disclose the existence of the Conflict of Interest to the applicable research ethics board where the Conflict of Interest relates to a research project.
- 2.7. The forms of the reports described in these Procedures will be prescribed by the Office of the University Counsel in consultation with the academic community.

### **3. Sanctions**

- 3.1. The Policy is meant to protect both the University and its Members. The Administrative Head of Unit will notify the University Counsel and take immediate and appropriate action when it becomes aware of violations of the Policy or Procedures.
- 3.2. Sanctions will be commensurate with the extent of the violation and may include termination of funding and reimbursement of any financial benefit gained as a result of the violation in addition to any disciplinary action taken by the University.
- 3.3. If a Member wishes to dispute the sanction imposed as a result of a violation, the Member may do so through the collective agreement or other contractual process applicable to the Member.