



2.2.6 Individual Conflicts of Interest

1. Introduction

The University of San Diego expects its employees to maintain the highest ethical standards whenever the interests of the university are involved. To that end, employees of the university must not allow a personal or outside interest to interfere with their duties and responsibilities to the university. Employees must not use their positions or knowledge gained at the university to influence decisions improperly for their personal advantage or for the advantage of their relatives, household members, or friends. Even the appearance of a conflict of interest should be avoided.

Any arrangements or relationships that may pose a potential, actual or perceived conflict of interest of an employee must be disclosed, reviewed and managed pursuant to the requirements of this policy.

Individual departments or schools may implement written standards or procedures in furtherance of and in accordance with this policy. Any such standards or procedures must be submitted to the Vice President for Finance and disclosed to the affected employees.

2. Key Definitions

a. “Conflict of Interest”

A conflict of interest refers to a situation in which (1) the employee’s personal interest may affect, or may reasonably have the appearance of affecting, the employee’s judgment in performing a university-related responsibility; or (2) the employee has the opportunity, or appears to have the opportunity, to influence the university’s decisions in ways that could lead to personal advantage to the employee or the employee’s relative or household member.

b. “Personal Interest”

Personal interest is broadly construed to mean an employee’s personal financial, business or professional interest, or interest in a familial or other interpersonal relationship.

c. “Personal Advantage”

Personal advantage means a financial, status or other benefit that is either direct or indirect, and either actual or potential.

d. “Financial Interest”

A financial interest is broadly construed to include (1) the receipt of wages, payment or other consideration of any kind for services performed (for example, fees, honoraria, gifts, or in kind payments); (2) intellectual property rights (for example, patents, copyrights, royalty income, or the right to receive future royalties); or (3) ownership or equity interests or entitlement to such interests in a publicly-traded or non-publicly traded business (for example, stock, stock options, partnership interests, and convertible debt but *excluding* interests in publicly-traded mutual funds or other investment vehicles where the individual investor has no control over the selection of the holdings).

e. “Relative” and “Household Member”

For the purpose of this policy, an employee’s relative includes for example an employee’s spouse, registered domestic partner, parent, child, sibling, grandparent, grandchild, step-parent, step-child, parent-in-law, sibling-in-law, aunt, uncle, niece, nephew or first cousin. A household member includes any person who lives in the same household with the employee.

3. The Obligation to Disclose Conflicts of Interest

An employee must disclose a conflict of interest in advance of becoming involved in any situation that may create or may have the appearance of creating a conflict of interest or immediately upon discovery of current or recent involvement in such a situation.

a. Conflicts Subject to Disclosure

Whether a conflict of interest is present often depends on careful consideration of the facts and circumstances of the particular situation. The employee is expected to recognize situations that may create or may have the appearance of creating a conflict of interest in order to ensure that the university is able to review and manage such situations. Although not an exclusive list, examples of possible conflicts of interest that should be disclosed under this policy include:

- Participating in any negotiation or transaction between the university and an entity in which the employee or the employee’s relative or household member has a personal, managerial or financial interest.
- Conducting business for or on behalf of the university with an individual or entity in which the employee or the employee’s relative or household member has a personal, managerial or financial interest.

- Maintaining a paid external consulting, business or employment relationship with a supplier or vendor of the university.
- Competing with the university for business, whether as an individual or as an employee of another entity.
- Competing with other external vendors for university business, whether as an individual or as an employee of another entity.
- Accepting personal gifts or special favors from third parties (either individuals or entities) that provide, or seek to provide, services or supplies to the university. This does not include occasional gifts of nominal or modest value or isolated invitations to lunch or dinner.
- Soliciting personal gifts or special favors from third parties (either individuals or entities) that provide, or seek to provide, services or supplies to the university.
- Endorsing or authorizing the endorsement of any product or service on behalf of the university.
- Conditioning an actual or potential business relationship with the university on a charitable gift or contribution to the university.
- Supervising or evaluating the work of a relative or household member, or participating or otherwise being involved in the performance evaluation of or a personnel decision or recommendation regarding a relative or household member.
- Teaching a class in which a relative, household member or employee who is supervised by the teacher is a student; serving as an academic advisor to a relative or household member; or participating or otherwise being involved in admissions, financial aid, or other academic or service-related decisions relating to a relative, household member, or an employee who is supervised by the individual.
- Conflicts of interest in research. The university maintains a separate policy that governs the disclosure, review and management of significant financial conflicts of interest in sponsored research. Research-related conflicts of interest that do not fall within the scope of that policy will be handled under this policy. For more information, please contact the Office of Sponsored Programs.
- Unauthorized use of university resources outside of the scope of the individual's employment. For more information, please see the university's policy governing the use of university resources.

Employees are expected to use their good judgment to determine when a conflict of interest exists that should be disclosed. Any doubt should be resolved in favor of disclosing the conflict of interest under this policy.

The university may require employees in designated positions to complete and submit an annual conflict of disclosure statement.

An employee may report a possible conflict of interest of another employee under this policy. Any such report should be made in good faith. The university prohibits retaliation against an employee who makes a report in good faith of another employee's possible conflict of interest under this policy.

b. Process for Disclosure

In the absence of a departmental procedure to the contrary, the employee should disclose the conflict of interest to the employee's immediate supervisor. In the alternative, the employee may disclose the conflict of interest to a department manager, a dean, a vice president, or Human Resources. The disclosure should be sufficiently detailed and timely to allow accurate and objective evaluation before making commitments or initiating activities that create conflicts of interest. The information provided in the disclosure must be accurate and must not be misleading.

All disclosed conflicts of interest should be reported by the recipient of the employee's disclosure to the vice president of the division in which the employee is employed and to the Vice President for Finance or their designees. In the case of a disclosed conflict of interest involving a vice president, the disclosed conflict of interest should be reported to the president.

4. Review and Management of Conflicts of Interest

Employees are expected to cooperate in the review and management of all conflicts of interest.

With the approval from the Vice President for Finance, the vice president of the division in which the employee is employed shall take the necessary action to review and manage the conflict of interest. In the case of a conflict of interest involving a vice president, the president shall take the necessary action to review and manage the conflict of interest. A vice president may delegate authority to one or more individuals to handle some or all of the vice president's responsibilities under this section.

In reviewing a conflict of interest, a situation will be determined to be:

- Permitted as is, because the disclosed information does not represent a conflict of interest; or
- Prohibited due to the nature of the conflict of interest and/or the inability to appropriately manage the conflict of interest; or
- Permitted, contingent upon the implementation of one or more recommendations to manage the conflict of interest.

Recommendations to manage a conflict of interest may include, among other things:

- Appropriate disclosure of the conflict of interest to the parties involved in the transaction.

- Recusal from participating in certain negotiations, recommendations, decisions or transactions.
- Recusal from managing or supervising particular employees or from other aspects of the employee's employment relationship with the university.
- Recusal from managing, overseeing, or other involvement in specified business relationships or transactions.
- Severance of an outside relationship that poses a conflict of interest.
- Appropriate monitoring and oversight by university management.

The appropriate vice president (or designee) should document the review and management of the conflict. Where a situation that involves a conflict of interest is permitted contingent upon the implementation of one or more recommendations to manage the conflict, the appropriate vice president (or designee) is responsible for monitoring the situation as necessary to ensure adequate management of the conflict.

5. Non-Compliance

Failure to comply with this policy, or with approved department or school standards or procedures governing conflicts of interest, may result in corrective action, as appropriate under the circumstances. Failure to comply includes but is not limited to failure to disclose conflicts, failure to review and manage conflicts as required under this policy, and failure to abide by any condition imposed in managing a conflict. The corrective action may range from verbal warnings up to and including termination from employment. If termination of a faculty member is contemplated, the applicable rules governing dismissal for serious cause will be followed.

(Last Updated September 11, 2013)