

New York University

UNIVERSITY POLICIES

Title: NYU Policy on Academic Conflict of Interest and Conflict of Commitment
Effective Date: September 2013
Supersedes: NYU Policy on Academic Conflict of Interest and Conflict of Commitment, August 24, 2012
Issuing Authority: University Provost
Responsible Officer: Senior Vice Provost for Research

Purpose of this Policy

The purpose of this policy is to establish consistent guidelines for Academic Conflict of Interest and Conflict of Commitment.

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The purpose of this policy, including the Addendum on Conflicts of Interest in Research and Other Sponsored Projects, is to assist the faculty in determining whether and to what extent such other activities may conflict with the faculty's primary commitment to teaching, research and collegial responsibilities; to educate faculty and Investigators about situations that generate the potential for conflicts of interest or conflicts of commitment; to clarify expectations about disclosing interests and activities that might result in conflicts; to identify means to manage, reduce or eliminate such conflicts; and to promote the best interests of students and others whose work depends on the direction of faculty members and Investigators.

Every NYU faculty member and Investigator has an obligation to become familiar with and abide by the provisions of this policy. If a faculty member or Investigator has a question about whether an activity is permitted under this policy, the faculty member or Investigator should disclose the potential or appearance of conflict to and seek guidance from his or her department chair or School Dean, or the Office of the Provost (the Executive Vice President for Health in the case of the Schools of Medicine, Dentistry and Nursing), or the Office of the General Counsel.

This policy covers conflicts of commitment and conflicts of interest. While this policy is of general applicability to faculty and Investigators, the Addendum on Conflicts of Interest in Research and Other Sponsored Projects, which is appended hereto as Exhibit B, includes specific provisions regarding conflicts of interest arising in connection with Research and Other Sponsored Projects. The Addendum on Conflicts of Interest in Research and Other Sponsored Projects, without reference to the other provisions of this policy or other NYU policies, is intended to meet NYU's obligations to maintain a policy on financial conflicts of interest in research funded by federal sponsoring agencies (including the Public Health Service of the U.S. Department of Health and Human Services and the National Science Foundation).

For purposes of this policy: (a) references to the "Provost" means the "Provost or his or her designee; and (b) references to the "Executive Vice President for Health" means "the Executive Vice President for Health or his or her designee."

Individual Schools may wish to supplement this policy with policies applicable to their faculty and/or Investigators. To ensure consistency with NYU policies, such School policies must be approved by the Provost (the Executive Vice President for Health in the case of the Schools of Medicine, Dentistry and Nursing).

II. POLICY DEFINITIONS

A Conflict of Commitment, as discussed in greater detail in Section III, occurs when a faculty member's Outside Activities compromise or may compromise his or her ability to meet the faculty member's obligations to NYU.

A Conflict of Interest, as discussed in greater detail in Section IV and in the Addendum on Conflicts of Interest in Research and Other Sponsored Projects, means any circumstance in which the personal, professional, financial or other interests of an individual (including the Immediate Family Members of the individual) may potentially or actually diverge from, or may be reasonably perceived as potentially or actually diverging from, his or her professional obligations to NYU and the interests of NYU. A Conflict of Interest may exist whenever an independent observer might reasonably question

institution of higher education, an academic teaching hospital, a medical center or a research institute that is affiliated with an institution of higher education, for scholarly and professional activities performed in connection with a faculty member's appointment to NYU, such as lectures or seminars, editorial or author

The specific responsibilities and professional activities that constitute an appropriate primary commitment to NYU will differ across Schools, departments and units, but they should be based on a general understanding between the faculty member and his or her department chair and/or School Dean. Even with such understandings in place, however, attempts of faculty to balance NYU responsibilities with Outside Activities can result in conflicts regarding allocation of time and energies.

Normally, it is expected that there will be no Conflict of Commitment between faculty commitment to NYU and other activities in which faculty members may engage. Furthermore, to the extent any questions of possible Conflict of Commitment arise, it is anticipated that the faculty member will quickly resolve the issues.

Outside Activities that do not constitute a Conflict of Commitment are permissible only if they also do not result in an impermissible Conflict of Interest (as discussed in Section IV and the Addendum for Conflicts of Interest in Research and Other Sponsored Projects attached to this policy as Exhibit B) and are in accordance with all NYU policies, including this policy and policies of the applicable School.

B. Policy and Discussion

(1)

A full-time appointment conveys an obligation for a faculty member to have a significant physical presence on his or her assigned campus (e.g., New York, Abu Dhabi or other global campus), to be accessible to students and staff, and to be available to interact with NYU colleagues on that campus throughout every semester or summer period while the faculty member is receiving compensation from NYU (i.e., holds a compensated appointment an

for Health in the case of the Schools of Medicine, Dentistry and Nursing) for purposes of this paragraph.

In addition, full-time faculty members may not have executive or managerial responsibilities in a private or public entity outside of NYU.

Exceptions to the prohibitions against engaging in Outside Activities more than one day per seven-day week or having executive or managerial responsibilities in a private or public entity outside of NYU limitation are rare (and usually time limited where granted) and may be made only with the prior written approval of the School Dean and Provost (the Executive Vice President for Health in the case of the Schools of Medicine, Dentistry and Nursing).

Outside Activities may detract from a faculty member's obligations to NYU. For that reason, Outside Activities must be consistent with the principles outlined in this policy and other applicable NYU policies. In particular, when judging the appropriateness of any such Outside Activity, faculty members must consider the time commitment involved and the potential impact of such Outside Activity, together with all of the faculty member's other Outside Activities, on the fulfillment of NYU's institutional goals.

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information about Conflicts of Interest and to require faculty and Investigators to take Conflict of Interest training. By way of example, the types of management actions that NYU may take in response to a Conflict of Interest include: reviewing and, where appropriate, monitoring the conflict; imposing conditions or restrictions intended to manage, reduce or eliminate such conflict; requiring disclosure of the conflict or of additional information; obtaining background documents; prohibiting a conflicted person from involvement, including exercising personal influence, in connection with a matter; obtaining waivers, consents and/or authorizations; appointing an oversight body to monitor the conflict or other activities; requiring relinquishment of interests and/or restructuring or severance of relationships that contribute to the conflict. In addition, NYU can eliminate the conflict, as for example by prohibiting a faculty member or an Investigator from participating in the activity or by requiring action that eliminates the conflict as a condition of participating in an activity.

C. Type

(viii) Faculty and Investigators may not grant any outside person or entity access to NYU resources, including research results and materials or products generated from NYU teaching or research activities.

(ix) Faculty and Investigators may not make or offer inappropriate inducements or take actions that are illegal or unethical in connection with their Outside Activities.

(x) Faculty and Investigators may not either (i) receive funds for the faculty member's and/or Investigator's NYU research from a party for whom compensated Outside Activities are being performed or (ii) engage in compensated Outside Activities for a party from whom funds are to be received for the faculty member's or Investigator's NYU research, without prior disclosure, review, approval and adherence to any required management plan.

(xi) NYU has no responsibility or liability for the Outside Activities of faculty or Investigators. Faculty and Investigators are encouraged to consider all risks before undertaking Outside Activities. NYU insurance coverages do not protect faculty and Investigators engaged in Outside Activities.

(2) Scholarship and Other Academic Activities. The heart of a university is its commitment to academic values and the failure of faculty and Investigators to carry on scholarship and other academic activities in an ethical and appropriate manner can damage NYU's reputation and otherwise harm the NYU community, creating a Conflict of Interest. Consistent with NYU's mission and its prevailing academic ethos, faculty and Investigators are expected to foster an atmosphere of academic freedom by promoting the open and timely exchange of results of scholarly activities, ensuring that their advising of students, fellows, trainees and postdoctoral appointees is independent of personal commercial interests, and informing students and colleagues about outside obligations that might influence the free exchange of scholarly information between them and the faculty member or Investigator.

Faculty and Investigators must ensure that:

- (a) The results of research or scholarship undertaken at NYU are disseminated on an open and timely basis to the broader scholarly community and public; and
- (b) The academic activities of student, fellows, trainees and postdoctoral appointees are free from the outside personal interests of the faculty member or Investigator; and
- (c) The work of students, fellows, trainees, postdoctoral appointees, and others is not inappropriately used in the course of a faculty member's or Investigator's outside obligations. To this end, faculty members and Investigators should be open about their involvements with and obligations to outside third parties who could benefit from the work or ideas of their students, staff and colleagues. Similarly, students, staff and faculty collaborators should have access to information about the sources of funds that support their research and their contributions to such research should be properly credited; and
- (d) They have made a sufficient contribution under pertinent professional academic standards to warrant the authorship credit to be given them; and they must not permit their

identification as an author of a publication that they know or should know was written by sources who are not properly identified and credited (i.e., ghostwritten).

For further information see the NYU Guidelines for Sponsored Research (Faculty Handbook), <http://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/faculty-handbook.html>.

(3) Activities Creating a Conflict of Interest. The following activities create a Conflict of Interest

(a) Improper Use of NYU Resources. NYU facilities, personnel and other resources are provided to further NYU's educational, administrative, research, clinical and other goals. These resources may not be used for personal use, including Outside Activities, except in a purely incidental manner. Personal use may not adversely affect work performance or add more than a negligible amount to the cost of these resources for NYU. All such incidental or other personal use must be in accordance with all NYU policies, including this policy and policies of the relevant School. The personal use, including in Outside Activities, of NYU funding or NYU intellectual property is never permitted and is never considered purely incidental. NYU does not ensure the security or privacy of any faculty work arising from personal use of NYU resources.

(b) Obtaining, Using or Disclosing NYU Confidential Information.

- (i) Obtaining, using or disclosing NYU confidential information for direct or indirect personal interest, profit or advantage or, for a purpose that may be detrimental to NYU.
- (ii) Use of NYU confidential information for a purpose that is not authorized by NYU or disclosure of NYU confidential information to a person who or entity that is not authorized by NYU to receive it.

For purposes of this policy, NYU confidential information includes, but is not limited to: medical, personnel, security, academic, background check, conflict of interest, identifiable biometric records and other non-public information about individuals; business records; contracts and business terms; business and donor relationships; computer system passwords and security codes; proprietary and competitively sensitive information, including non-public information about anticipated material requirements, price actions, programs, and selection of contractors and subcontractors in advance of official announcements; unpublished grant proposals, non-public research data, manuscripts and correspondence; non-public financial, procurement, health-safety, audit, insurance and claims information; and non-public information relating to internal investigations, pre-litigation and litigation and administrative agency charges, audits and inquiries; and other information whose confidentiality is protected by law or NYU policies.

(c) Failing to Disclose and Assign Inventions and Discoveries. Inventions and discoveries by faculty members, Investigators and others subject to NYU's <http://www.nyu.edu/about/policies-guidelines-compliance/policies-and->

(d) Competing with NYU.

(i) Engaging in activities that are in direct competition with NYU.

(ii) Holding, directly or indirectly, an ownership or other financial interest (such as a royalty interest) or having an Employment/Management/Fiduciary Role in an enterprise that is a competitor of NYU or promoting the interests of such enterprise at NYU. Holding, directly or indirectly, an Ownership Interest will not, by itself, be deemed to be a Conflict of Interest where: the interest is in an enterprise held through a diversified investment vehicle (such as a broad-based mutual fund or exchange traded fund) in which neither the faculty member or Investigator, or his or her Immediate Family Members, collectively, has a 15% or greater direct or indirect interest; or where the interest is held in publicly-traded securities in which neither the faculty member or Investigator, or his or her Immediate Family Members, collectively, holds directly or indirectly securities valued in excess of \$5,000 or that represent more than a 5% interest of any class of a company's stock or shares;

(e) Business Arrangements for Personal Benefit. Participating, directly or indirectly, in the selection, award or administration (including attempting to influence the purchase of products or services as through a recommendation or involvement in the subsequent performance of the business arrangement) of any business arrangement involving NYU and an enterprise in which the faculty member or Investigator holds, directly or indirectly, an ownership or other financial interest (such as a royalty interest) or has an Employment/Management/Fiduciary Role.

(f) Gifts Intending to Influence. Accepting gifts (including entertainment), a loan (other than an arm's length loan made in the ordinary course of business from a banking or other financial institution) or a favor of more than nominal value from any person or entity with a business relationship, or seeking to have a business relationship with, NYU or its faculty, employees, students, alumni or patients if the offer or acceptance of the gift could reasonably be viewed as intended to influence the business relationship.

(g) Failure to strictly comply with NYU policies and other rules, regulations and standards of conduct.

Examples of specific Conflicts of Interest intended to illustrate certain of the principles described in this Section IV.C. are set forth in Exhibit A to this policy.

D. Circumstances Under Which Conflicts of Interest May Be Permitted

It is recognized that certain Conflicts of Interest may arise in situations in which a faculty member or Investigator does not know or have reason to know of the conflict. In such situations the person should disclose the Conflict of Interest immediately upon learning of it. While Conflicts of Interest must be disclosed, they normally will be permitted where they are a minor, but an inseparable, part of a larger business relationship, or as a practical matter cannot realistically be eliminated, provided they are highly unlikely to pose a significant Conflict of Interest and the faculty member or Investigator is

not in a position to influence NYU in its decision-making regarding the transaction or to benefit from NYU's transaction with the outside entity.

In considering whether a Conflict of Interest arising from a faculty member's or an Investigator's Outside Activities may be permitted, favorable factors include:

- (a) The faculty member or Investigator fully disclosing in advance to NYU the material facts of the proposed Outside Activity, including the specific financial interest(s) and/or role(s) the faculty member or Investigator proposes to undertake;
- (b) The faculty member or Investigator refraining from voting or exercising any personal influence whatsoever in connection with the selection, award or administration of any matter that gives rise to a Conflict of Interest;
- (c) The faculty member or Investigator otherwise avoiding participating in any dealings between NYU, or its faculty, employees, students, alumni or patients, and the person, entity or company with whom or in which the faculty member or Investigator (or Immediate Family Member) has a financial interest or an Employment/Management/Fiduciary Role, including with respect to the selection of such person, entity or company as a vendor or business partner of NYU (or as a supplier of goods or services to NYU faculty, employees, students, alumni or patients) or the subsequent award or administration;
- (d) The Outside Activities are conducted on an arm's length basis at fair market value; and
- (e) NYU determines in accordance with Section V of this policy that the Conflict of Interest is not inconsistent with the best interests of NYU.

Where a Conflict of Interest arising from a faculty member's or Investigator's Outside Activities is permitted, the permission may be conditioned on adherence to a specified management plan.

E. Training

All NYU faculty members and Investigators need to be familiar with this policy and may be required by their School Dean or the Provost (the Executive Vice President for Health in the case of the Schools of Medicine, Dentistry and Nursing) to complete training regarding this policy and their responsibilities regarding activities that may constitute a Conflict of Interest.

V. PROCEDURES: DISCLOSURES, REVIEW AND RESPONSIBILITIES

The responsibility in the first instance for determining whether an activity presents a Conflict of

Conflicts must be disclosed in writing; and any waiver of the conflict or management plan must be reduced to writing.

A. Disclosures

(1) Faculty and Other Investigators: Annual Disclosures

On an annual basis, all full-time faculty, persons identified by the Office of the Provost as Investigators (through processes it determines) and others as requested by a School Dean or the Office of the Provost must complete and submit to their School Dean the applicable annual disclosure form then in effect, which form will refer faculty and Investigators and, where applicable, others to this policy and any related policies of the applicable School (including the availability of this policy and any applicable School policy on the NYU website). Such annual disclosure form requires, among other

NYU may require a faculty member or Investigator to complete an ad hoc conflict disclosure form at any time.

Such disclosures will be reviewed according to procedures described in Section V.B below.

number of disclosures reporting Conflicts of Interest and Conflicts of Commitment, and the outcome

(10) A student is a principal in a company and offers his or her professor compensated work with that company, or offers to engage the professor after the course is completed.

(11) A faculty member or Investigator proposes that NYU offer its employees or alumni an insurance policy with a company in which the faculty member or Investigator or an Immediate Family Member serves on the board of directors.

Addendum on Conflicts of Interest in Research and Other Sponsored Projects

This addendum supplements the Policy on Academic Conflict of Interest and Conflict of Commitment (referred to in this Addendum as the "policy") with respect to Conflicts of Interest in Research and Other Sponsored Projects. It is intended, without reference to the other provisions of the policy or other NYU policies, to meet NYU's obligations to maintain a policy on financial conflicts of interest in research funded by federal sponsoring agencies (including the Public Health Service of the U.S. Department of Health and Human Services and the National Science Foundation).

conduct of scholarship, research or clinical care, are determined by considerations of personal gain, financial or otherwise.

Employment/Management/Fiduciary Role means a position involving service, in either a personal or representative capacity, as an employee, executive, manager, officer, director, trustee, or equivalent in a business, enterprise or entity other than NYU or an entity that is 50% or more owned or controlled by NYU.

FCOI or Financial Conflict of Interest means a Significant Financial Interest that could directly and significantly affect the design, conduct or reporting of a specific Research and Other Sponsored Projects. An FCOI is a Conflict of Interest under the policy.

Outside Activities include any external, remunerated consulting involving an individual's professional competence or other business activities and external professional and academic endeavors, such as public service or work, performed outside of the faculty member's appointment to NYU or an Investigator's employment or association with NYU.

Ownership Interest means holding a financial or ownership interest in a business or entity, including stock, stock option, warrant, convertible debt, partnership interest, LLP/LLC interest, or other ownership interest or right to obtain an ownership interest. The value of an Ownership Interest is determined through reference to public prices or other reasonable measures of fair market value where public prices are not available.

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Research and Other Sponsored Projects means any research project conducted at or under the auspices of NYU

(1)

Human subjects research of greater than minimal risk is the most sensitive area of research. Accordingly, the disclosures and review in this area, addressed in Section IV of this addendum, include additional requirements and determinations as to whether to proceed and under what conditions are held to an even higher standard.

This addendum applies to all research conducted at or under the auspices of NYU, whether or not funded by a federal sponsoring agency or another external funding source. Research and Other Sponsored Projects that are sponsored often are subject to additional conflict rules, including those imposed by a federal sponsoring agency and those imposed contractually by private funding sources and collaborators. It is the policy of NYU to comply with all such requirements. This addendum is believed to be in compliance with the applicable federal sponsoring agency requirements; to the extent there is any issue about whether this addendum wholly complies with a sponsoring agency or other sponsor requirement, it is to be interpreted to assure compliance. Additionally, Research and Other Sponsored Projects must be conducted in accordance with all NYU policies, including the policy and policies of the relevant School. Each Investigator is responsible for assuring his or her compliance with the requirements applicable to the Investigator's specific Research and Other Sponsored Projects.

In instances where NYU carries out funded Research and Other Sponsored Projects through subgrantees, subcontractors, or collaborators, NYU will, to the extent it is required to under the grant or contract terms with the funder, either require, by written agreement, such external Investigators to comply with the pertinent portions of this addendum, or require, by written agreement, the entities for which the Investigators work to provide assurances that such entities have a written conflicts policy in effect that applies to their Investigators and complies with applicable federal sponsoring agency requirements. Such written agreements will specify the time period(s) for the subgrantees, subcontractors or collaborators to report to NYU all identified FCOI or to submit to NYU all Investigator disclosures of significant financial interests, in each case so as to enable NYU to meet its obligations under this addendum, and its obligations to external sponsors, if applicable.

Examples of specific FCOI intended to illustrate certain of the principles described in this Section III are set forth in Section V of this addendum.

All Investigators involved in Research and Other Sponsored Projects may be required by the funding source to periodically complete an appropriate training program prior to engaging in Research and Other Sponsored Projects. Each Investigator involved in PHS-Funded Research and Other Sponsored Projects must complete training regarding this policy and the PHS Regulations, and the Investigator's responsibilities regarding disclosure of Significant Financial Interest as required under this policy, prior to first engaging in PHS-Funded Research and Other Sponsored Projects, at least every four years thereafter, and as otherwise may be requested by the Provost (the Executive Vice President for Health in the case of the Schools of Medicine, Dentistry and Nursing) or his or her department chair or School Dean.

IV. PROCEDURES: DISCLOSURES, REVIEW AND RESPONSIBILITIES

The responsibility in the first instance for determining whether an activity presents a Conflict of Interest rests with the Investigator concerned. If there is any reasonable doubt as to whether an activity may constitute such a conflict, or there is a question about whether an activity is permitted under the policy, including this addendum, the Investigator should disclose the actual, potential or appearance of conflict to and seek guidance from his or her department chair or School Dean, the Office of the

Provost (the Executive Vice President for Health in the case of the Schools of Medicine, Dentistry and Nursing) or the Office of the General Counsel.

A. Disclosures

(1) Investigator: Annual Disclosures

On an annual basis, Investigators who are members of the University Community must complete and submit the applicable annual disclosure form to the extent required by Section V.A.(1) of the policy. Each Investigator who is a member of the University Community and who is involved in PHS-Funded Research and Other Sponsored Projects must complete an annual disclosure form in the year prior to each submission of a proposed PHS-Funded Research and Other Sponsored Projects or complete an annual disclosure form prior to the next submission of a proposed PHS-Funded Research and Other Sponsored Projects.

(2) Research and Other Sponsored Projects: Reporting Requirements

Each time an Investigator is planning to participate in proposed Research and Other Sponsored Projects, the Investigators involved with the proposed Research and Other Sponsored Projects must submit the applicable Investigator financial interest disclosure form in effect, which form will refer the Investigator to the policy, including this addendum (including their availability, on the NYU website). Such Investigator financial interest disclosure form requires, among other matters, disclosure of the Investigator's and his or her Immediate Family Members' (i) Significant Financial Interests (specifying, in the event of a PHS-Funded Research and Other Sponsored Projects or a Non-PHS-Funded Research and Other Sponsored Projects that incorporate the PHS Regulations into the funding award terms, if any such Significant Financial Interest could reasonably be determined to affect the design, conduct, or reporting of the Research and Other Sponsored Projects and specifying for each disclosed travel reimbursement and travel paid at a minimum, the purpose of each trip, the identity of each sponsor/organizer, its destination, and its duration); (ii) Employment/Management/Fiduciary Roles held in an entity whose financial interest could affect the Research and Other Sponsored Projects; and (iii) any rights held in intellectual property covering products or processes being used in the Research and Other Sponsored Projects (including any right to royalty income from intellectual property assigned to NYU under NYU's intellectual property policies, including its Statement of Policy on Patents). Such disclosure must be made prior to the submission of an application for the Research and Other Sponsored Projects to the sponsor, updated annually for the duration of the Research and Other Sponsored Projects, and updated within thirty days of discovering or acquiring any such new activity or interest (e.g., through purchase, marriage or inheritance). The Investigator financial interest disclosure form and annual update form must be submitted even if there is no interest, position or rights to disclose.

Such disclosures will be reviewed according to procedures described in Section IV.B. of this addendum.

(3) Human Subjects Research Disclosures

Studies involving human subjects of greater than minimal risk and requiring review by an institutional review board (IRB) raise the most sensitive issues. Studies involving pre-clinical research (i.e., studies reasonably anticipated to contribute to an FDA application for research involving human subjects

within the next 12 months) also raise sensitive issues. For that reason, the scientific objectivity of an

