DRAFT

UNIVERSITY OF PUERTO RICO
CONFLICT OF INTEREST GUIDELINES

I. INTRODUCTION

The University of Puerto Rico values and supports entrepreneurial activity by faculty. Consistent with the University's goal to support the economic development of Puerto Rico, entrepreneurial activities of University faculty are considered part of their duties. Faculty use of university resources in support of appropriate entrepreneurial activities may be allowed provided these activities do not conflict with applicable policies regarding use of public facilities for private gain. Incidental and minimal use of office, library, machine shop, personal desktop work stations, storage servers, communication devices, or clerical staff is permitted.

For the purpose of these guidelines, entrepreneurial activities performed by a member of the university faculty as part of University duties are activities that contribute to the university's economic development, technology transfer or other public service goals. Examples include early stage activities associated with forming a nonprofit organization focused on health care, environmental or educational issues, a startup company in which the university expects to acquire an equity position through licensing university intellectual property, or activities in support of the development of a licensing agreement with an established company. Where activities are undertaken purely for an employee's personal gain without connection to the University's mission, use of University resources in support of such activities is not appropriate except as otherwise allowed by University policy.

II. BACKGROUND

These guidelines are established to provide guidance on the university's policy on conflict of interest and commitment, including outside employment. An implicit assumption underlying these policies is that the design, conduct, and reporting of research should not be biased by any significant financial interest and that outside professional activities of university faculty members and researchers must not detract from their full-time obligations to the university. Participation in research, or other professional activities with opportunities for personal gain, may not constitute an unacceptable situation. However, state and federal agencies have legitimate concerns that any research they sponsor is free of bias, due to financial interests of the investigator and institution; that funds provided be expended as intended; and that the commitment of time and effort be appropriate for the project supported. To qualify for federal funding, the university assumes the responsibility for ensuring that these concerns are addressed.

Typically, a financial conflict of interest may arise when a person has the opportunity to influence the University's business, administrative, academic, or other decisions in ways that could lead to personal gain or advantage of any kind. A conflict of interest may also exist when a person has a CONSULTING RELATIONSHIP with a BUSINESS from which he or she receives SPONSORED PROGRAM support, or in which he or she has any other SIGNIFICANT FINANCIAL INTEREST.

III. DEFINITIONS

A. **University** or **UPR** refers to the University of Puerto Rico.

B. **"Conflict of interest**" occurs in any situation in which a person serves or represents two distinct entities (or persons) or must choose between two conflicting interests. A "conflict of interest" in the traditional sense encompasses situations in which a person has actually neglected or breached a duty to one entity to the benefit of another, situations in which a person has used his or her position with one entity to advance personal gain or the gain of another entity, and situations in which there is a potential for breaching a duty to one entity. The latter is sometimes referred to as a "potential" or "apparent" conflict of interest. In this document the term "conflict of interest" will be used to describe all these situations.

C. **Researcher** or **Investigator** includes the principal investigator, co-principal investigators, and all faculty and research staff members or any other person at the institution who is responsible for the design, conduct, or reporting of the research or educational activities as well as the dissemination of the results.

D. **Employees** refers to all full time or part time employees, including faculty, students, administrative and professional personnel, support personnel, faculty and visiting researchers, research assistants, scientists and visiting professors, or any person whose services are paid by the University.

E **Immediate family** refers to the employee or researcher's parents, siblings, spouse, and dependent children. It also refers to any individual who resides on a regular basis in the researcher's domicile or whose financial affairs are under the control of the employee or researcher.

F. **Sponsored research project or other sponsored program** includes a variety of possible activities and not research alone. Sponsored programs include, but are not limited to; curriculum development projects, public service projects, instrumentation and infrastructure awards, training grants, conference grants and any other activity funded either directly, or indirectly, by an external entity, including private sponsors and agencies of the commonwealth and federal governments.

G. **University funds** or **funds administered by the University** refer to any funds that the University administers regardless of their source: federal government, local government, private or any kind, and whose purpose is to support research or scholarly activities.

H. **Significant financial interest** refers to the relationship between an investigator and the sponsor of a project and means any monetary value including, but not limited to, salary or any other payment or compensation for services (e.g. consulting fees or honoraria); equity interests (e.g. stocks, stock options or other ownership interests); interests derived from investments, and any income derived from intellectual property rights (e.g. patents, copyrights) and royalties from such rights; a direct or indirect investment in the sponsoring entity worth more than $10,000; an equity interest of more than five percent; a position as director, officer, partner, trustee, employee of or any other position of management in the sponsoring entity; income from the sponsor including consulting income, gifts and loans received from or promised by the sponsor within 12 months prior to the acceptance of the award. This term does not include:

1. Salary, royalties or other remuneration from the applicant institution;

2. Ownership interest in the sponsoring entity, if the entity is an applicant under the Small Business Innovation Research Program or Small Business Technology Transfer Program;

3. Income from seminars, lectures, conferences, or teaching agreements sponsored by public or non-profit entities;

4. Income from service on advisory committees or review panels for public or nonprofit entities;

5. An equity interest that, when aggregated for the investigator and the investigator's immediate family, meets both of the following tests: does not exceed $10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a 5% ownership interest in any single entity; or

6. Salary, royalties or other payments that, when aggregated for the investigator and the investigator's immediate family, are not expected to exceed $10,000 during the next twelve month period.

I. Indirect investment or indirect financial interest occurs when an investigator's immediate family has a financial interest in the sponsoring entity, or when the investigator or his or her immediate family owns directly, indirectly or beneficially a five percent interest or greater in a business entity or trust that has a financial interest in the sponsoring entity.

J. Equity (ownership) interest means an investment of more than $10,000 in a sponsoring entity or five percent of company ownership by an investigator, or his or her immediate family.

IV. CATEGORIES

According to the institutional Policy on Conflicts of Interests and Disclosure of Financial Interests in Research, and Other Sponsored Programs of the University of Puerto Rico, faculty should disclose any anticipated consulting or outside employment activities.

While it is difficult to specify precisely what constitutes an objectionable conflict in all situations, the guidelines set forth below establish general standards by which individuals must evaluate their behavior. The guidelines are divided into three categories: conduct presumptively prohibited; conduct permitted only after review and approval; and conduct merely requiring disclosure.

1. CONDUCT PRESUMPTIVELY PROHIBITED

This section of the guidelines describes conduct which is "presumptively prohibited". Presumptively prohibited conduct is presumed to present a prima facie conflict of interest and may not ordinarily be engaged in by any person covered under the Policy. The Policy recognizes, however, that under unusual circumstances, a faculty member or employee may be permitted to engage in presumptively prohibited conduct if he or she presents clear and persuasive evidence that the conduct proposed would not be in conflict with established University policies. In such cases, a faculty member or employee may present his or her case for review under Section V of the Policy.

a. SIGNIFICANT FINANCIAL INTEREST IN A BUSINESS

If a person, a member of his or her FAMILY, or an ASSOCIATED ENTITY possesses some form of SIGNIFICANT FINANCIAL INTEREST in a BUSINESS, then the person may not

i. receive SPONSORED PROGRAM support from the BUSINESS; or
ii. assign students, postgraduate students, fellows or other trainees to projects supported wholly or partially by SPONSORED PROGRAM funding from the BUSINESS.

b. **PARTICIPATION IN UNIVERSITY DECISIONS**
A person may not normally participate in any University decision that has any effect on a BUSINESS in which the person, a member of the person's FAMILY, or an ASSOCIATED ENTITY has a SIGNIFICANT FINANCIAL INTEREST or a CONSULTING RELATIONSHIP, or with which the person is negotiating or has any arrangement concerning prospective employment. Under such circumstances, a person shall recuse himself or herself from any such decision.

2. **CONDUCT PERMITTED ONLY AFTER REVIEW AND APPROVAL**
This section of the guidelines describes conduct a person may engage in only after review and approval in accordance with Section D of the Policy.

a. **SIGNIFICANT FINANCIAL INTEREST IN A BUSINESS**
If a person, a members of his or her FAMILY, or an ASSOCIATED ENTITY possesses a SIGNIFICANT FINANCIAL INTEREST in a BUSINESS, then unless he or she first discloses the SIGNIFICANT FINANCIAL INTEREST and receives approval in accordance with Section D of the Policy, the person may not

1. engage in research on projects that although not sponsored by the BUSINESS, involve TECHNOLOGY owned by or contractually obligated (for example, through a license) to such a BUSINESS;
2. assign students, post-graduate students, fellows or other trainees to projects listed in (a) above; or,
3. make clinical referrals to such a BUSINESS

V. CONSULTING RELATIONSHIPS

A person may not enter into a consulting arrangement with a BUSINESS from which he or she receives SPONSORED PROGRAM support or with which the University has a substantial contractual relationship known to that person, where the CONSULTING RELATIONSHIP provides him or her annually with $10,000 or more in compensation of any kind, unless the person first discloses the facts and receives approval in accordance with Section D of the Policy. In addition, a person who enters into such a CONSULTING RELATIONSHIP may not assign students, fellows or other trainees to projects supported through SPONSORED PROGRAM funds from the BUSINESS engaging him or her for consulting without first receiving specific approval, in accordance with Section D of the Policy, to make such assignments.

VI. SERVICE AS AN OFFICER OR EXECUTIVE WITH A NON-UNIVERSITY ENTITY

A person may not assume an uncompensated EXECUTIVE POSITION in, or serve without compensation on the advisory board of, a BUSINESS (not including a government agency, nonprofit organization, or an accredited educational institution) from which the person receives SPONSORED PROGRAM support unless the person first discloses the facts and receives approval in accordance with Section D of the Policy.

VII. USE OF THE UNIVERSITY'S NAME

A person who has a SIGNIFICANT FINANCIAL INTEREST in a BUSINESS, enters into a CONSULTING RELATIONSHIP with a BUSINESS, or is affiliated with or performs services for a BUSINESS, may not authorize that BUSINESS to use the University's name, symbols, or logo to imply endorsement of the BUSINESS by the University, or to give undue prominence to the fact that the person is associated with the University, unless the person first discloses the facts and receives approval in accordance with Section D of the Policy. In addition, the person must comply with any other applicable University requirements.

VIII. USE OF UNIVERSITY FACILITIES

A person may not enter into an agreement with a BUSINESS involving the use of facilities or resources belonging to or utilized by the University, including the person's office or laboratory, unless the person first discloses the facts and receives approval in accordance with Section D of the Policy. This procedure supplements and does not supersede space allocation procedures utilized by the University and its campuses.

IX. GOVERNMENT FUNDED ACTIVITIES

a. If a person, a member of his or her FAMILY, or an ASSOCIATED ENTITY has a SIGNIFICANT FINANCIAL INTEREST in or a CONSULTING RELATIONSHIP with a BUSINESS, he or she may not

1. participate in government funded research, educational or clinical care activities that would reasonably appear to be directly and significantly affected by such BUSINESS interest or CONSULTING RELATIONSHIP; or
2. participate by testifying, making recommendations, or voting, in any internal or external decision-making process involving the award or distribution of government funds where the testimony, recommendation or vote would reasonably appear to be directly and significantly influenced by such BUSINESS interest or CONSULTING RELATIONSHIP unless the person first discloses the facts and receives approval in accordance with Section D of the Policy.

X. CONDUCT REQUIRING DISCLOSURE

This section of the guidelines describes conduct which, while not presumptively prohibited or subject to prior approval of an institutional official, must be disclosed in accordance with Section C of the Policy.

XI. SERVICE AS AN OFFICER IN A NON-UNIVERSITY ENTITY

If a person assumes an uncompensated EXECUTIVE POSITION in, or serves without compensation on any advisory board of, a BUSINESS (not including a government agency, nonprofit organization, or an accredited educational institution) with which the University has a substantial contractual relationship known to the person, then the person must disclose the facts in accordance with Section C of the Policy.

XII. PUBLICATIONS OR PRESENTATIONS

If a person, a member of his or her FAMILY, or an ASSOCIATE ENTITY possess a SIGNIFICANT FINANCIAL INTEREST in a BUSINESS, or has entered into a CONSULTING RELATIONSHIP with a BUSINESS, he or she may not publish or give public oral presentation on the results of research sponsored by such a BUSINESS, or of research on TECHNOLOGY owned by or contractually obligated to such a BUSINESS, without first disclaiming in the publication or presentation any endorsement by the University. The person must also disclose the SIGNIFICANT FINANCIAL INTEREST and the CONSULTING RELATIONSHIP to the potential PUBLISHER or sponsor of the public presentation, regardless of whether the PUBLISHER requires such a disclosure.

XIII. CONSULTING RELATIONSHIPS

If a person enters into a CONSULTING RELATIONSHIP with a BUSINESS where the CONSULTING RELATIONSHIP provides him or her annually with $10,000 or more in compensation of any kind and the CONSULTING RELATIONSHIP is in the field of the person's professional responsibility at the University, he or she must disclose the facts in accordance with Section C of the Policy, regardless of whether or not the person receives SPONSORED PROGRAM support from the BUSINESS or has a SIGNIFICANT FINANCIAL INTEREST in the BUSINESS. This paragraph does not supersede other requirements detailed in the Faculty Handbook.

IX. EXAMPLES OF ALLOWABLE ACTIVITIES

The following examples are not considered conflicts of interest and are exempt from reporting requirements, unless they are so extensive in time and effort that they constitute a conflict of commitment.

1. Receiving salary, royalties, honoraria, stipends, or other remuneration from the University of Puerto Rico.

2. Earning income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities.

3. Receiving income from service on advisory committees or review panels for public or nonprofit entities.

4. Holding financial interests in business enterprises or entities if the value of such interests does not exceed $10,000 per annum of salary, fees, and other continuing payments, or does not represent more than a five percent (5%) ownership interest in any one enterprise or entity when aggregated for the Investigator and the Investigator's immediate family

X. Examples of Non-allowable Activities or those Requiring Management Plans (not inclusive)

1. Failure of the faculty member/researcher to fulfill university responsibilities (e.g., holding classes, advising students, conducting research, serving on departmental or university committees, supervising students in research lab), due to involvement in external activities.

2. Sponsored projects or technology licensing arrangements in which any of the involved investigators (or members of their immediate families) have employment or consulting arrangements and significant financial interests in the sponsor, or with subcontractors, vendors, or collaborators.

3. Using university resources to conduct research that is sponsored by an entity in which the faculty member/researcher or his/her family member has a significant financial interest.

4. Serving as a consultant or on the board of directors or major advisory committee of an external for-profit entity which sponsors the faculty member's/researcher's research or provides gift funds for the researcher or his/her department.

5. Hiring university students in consulting activities or a company in which the faculty member/researcher has financial interests. If the student's thesis/dissertation research is supervised by the faculty member, the conflict of interest situation may not be manageable.

6. Diverting research opportunities from the university to a consulting entity or business in which the faculty/researcher has a financial interest.

7. While acting in the context of his/her university duties, making professional referrals to or purchasing materials or services from a business in which an academic staff member or family member has a financial interest.

8. Serving as president or CEO, or holding any other position that requires involvement in the day-to-day operations of a for-profit sponsor. Such a situation creates an unacceptable conflict of interest and/or commitment, which must be reduced in order to be manageable.

9. Conducting clinical trials on a drug or device developed by the faculty member/researcher may be manageable if the research DOES NOT involve human research subjects.

10. Equity (ownership) interest of the faculty member (or members of the immediate family) in a sponsor.

11. Gifts to the university of cash or property which will be under the control, or will directly support the teaching or research activities of a faculty member from an entity in which that faculty member (or members of the immediate family) has an employment or consulting arrangement and/or significant financial interests.

XI. Procedures for Declaring Potential Conflicts of Interest and Obtaining Approval for Management Plan

1. Determine if you have a potential conflict of interest by reviewing these guidelines and the relevant sections of the University of Puerto Rico's operating procedures:

   Declare a potential conflict of interest by completing the form, the University Of Puerto Rico Financial Disclosure and Conflict Of Interest Report. Submit the form to _____ at the time of submitting the research proposal (if applicable) or to the OTL if a license agreement is involved. The materials will be forwarded to the Office of the Vice President for Research and Technology, along with a copy of the proposal, research agreement, and/or license agreement, if applicable.

2. Develop a Potential Conflict of Interest Management Plan in cooperation with the vice president for research and technology responsible for the university's conflict of interest policy. Refer to the example management plan attached.

3. Forward the Management Plan to the Office of the Vice President for Research and Technology. If the research is externally funded, a meeting of The University's Objectivity in Research (OIR) Committee will review the proposed management plan.

4. Once the Management Plan has been approved by the OIR Committee, you will be asked to write a letter of certification to the Vice President for Research and Technology indicating that you accept the management plan and agree to abide by it.

5. The chairperson of the OIR Committee will prepare the institutional certification letter that will accompany the employee certification letter and management plan to the Vice President for Research and Technology. For an example of the institutional letter that will be prepared, see: Submitting a Plan to Manage Conflict of Interest to U.T. System for Approval.

6. Once the Vice President has approved the plan, the documents — management plan, employee certification letter, institutional certification letter — will be prepared by the

Office of the Vice President for Research for placing on the Institutional Docket of the next Board of Regents' meeting. (Meetings are held on May 10, August 10, November 10, and February 10. UT Austin internal deadline is 6 weeks prior to the Board meeting.)

7. Each such financial disclosure statement must be updated during the period of the research grant or contract on an annual basis, or more often if any new reportable Significant Financial Interests are obtained.

8. In addition, even if the researcher has no reportable Significant Financial Interests at the time a proposal is written/submitted and/or a grant or contract is awarded, he or she has the obligation to complete a financial disclosure statement if any reportable Significant Financial Interests are subsequently obtained.

XII. Initial Review of the COI Management Plan

The investigator must provide to the OIR Committee the following information for review:

- All relevant financial interests that exceed the threshold of significance as defined in the Conflict of Interest policy.
- All external commitments and documentation that involvement does not exceed permissible levels as defined in the Conflict of Interest policy.
- Description of the facts and circumstances regarding the investigator's financial involvement with the sponsoring organization and measures that will be taken to ensure that the financial involvement will not affect or impair the conduct of the research in accordance with the applicable University policies and the highest professional standards.
- Documentation of how the interests of the University will be maintained in consideration of the investigator's interest in the sponsor.
- Evidence that the research project will lead to the advancement of knowledge rather than to merely benefiting the sponsor.
- Evidence that the research project will contribute to the University's mission of teaching, research, and public service.
- When applicable, evidence that the best interests of the University and the public will be served by granting an exclusive license to the sponsor.
- Descriptions of any patent applications that have been filed, or any intent to file patent applications, related to or arising from this research program. If any patent applications have been filed, what was the filing date and applicant name?

- All relevant information concerning the faculty member's activities have been acquired (i.e., there been full disclosure).

At a minimum, the University's OIR Committee will determine whether a Significant Financial Interest could affect the design, conduct, or reporting of the research activities funded or proposed for such funding and determine what conditions or restrictions, if any, should be imposed to manage such interests. Any conditions or restrictions to resolve or manage conflicts of interest must be determined and implemented before the expenditure of any funds awarded under a grant or contract. Examples of conditions or restrictions that may be imposed to manage actual or potential conflicts of interest include:

- Public disclosures of Significant Financial Interests;
- Monitoring of the research by independent reviewers;
- Modification of the research plan;
- Disqualification from participation in all or a portion of the research project in question;
- Divestiture of Significant Financial Interests;
- Severance of relationships that create actual or potential conflicts;
- Appointing an impartial person to monitor the use of students;
- Removing purchasing decision authority;
- A leave of absence for the faculty member with or without pay; or
- The conflict cannot be managed and, therefore, the agreement cannot be approved.

XII. Annual Review

The investigator must provide to the OIR Committee a copy of the annual report to the sponsor and the following information for review:

- Description of additional funding obtained by the investigator for this research program. Identify funding source(s).
- Describe any changes in personnel appointed to work on this research program during the past year or since the most recent report.
- Describe articles or other publications that have been generated from this research program and where they have appeared. Provide evidence that research results have been faithfully and accurately reported.

- Describe any changes in terms of the agreement between the company and the investigator's research lab. during the past year or since the most recent report.
- Describe any research information or intellectual property that has been disclosed to the company. Attach copies of any written communications between the PI and the company that reflect any disclosure of research information or intellectual property.
- Describe any changes in the investigator's financial position with the company.
- Describe any changes in the researcher's family members' position with the company.

XIII. Responsibilities

1. Responsibility of the Investigator/Researcher

It is the responsibility of the investigator/researcher to disclose all Significant Financial Interests and business relationships on the Financial Disclosure Statement (FDS) and to continue to complete necessary paperwork regarding potential conflicts of interest or commitment during the period of a grant, contract, or licensing arrangement. The investigator/researcher is responsible for working with the Office of the Vice President for Research, its officers, and the OIR Committee in managing, reducing, or eliminating any conflict of interest or commitment. This includes the completion of a COI Management Plan, the preparation of an Annual Review Report, and any update of a COI Management Plan.

The investigator/researcher is responsible for updating any information relevant to a conflict of interest or commitment during the period covered by the management plan and for notifying the chair of the OIR Committee of any additional potential conflicts of interest or commitment that may arise.

The investigator/researcher must disclose to the relevant dean, associate dean for research, or department chair all current or prospective situations that may raise questions of conflict of interest or commitment as soon as such situations become known to the investigator/researcher.

2. Responsibility of College Deans/Department Chairs

College deans and department chairs are responsible for advising the investigator/researcher of the appropriate resources for guidance in managing a potential conflict of interest or commitment when any potential or perceived conflicts are brought to the chair's or dean's attention.

3. Responsibility of the Chair of the Objectivity in Research Committee

The Vice President for Research has charged the chair of the OIR Committee with the responsibility for the implementation of, and compliance with, this policy. The chair of the OIR Committee is responsible for reviewing all Financial Disclosure Statements. The OIR Committee chair will maintain all records received and created pursuant to this policy as well as all records of actions taken with respect to each conflict of interest or commitment at least five years beyond the termination or completion of the research grant or contract, or until resolution of any action by the granting or contracting agency/entity involving the records, whichever is longer.

4. Responsibility of the Office of Sponsored Projects (OSP)

OSP shall forward any Financial Disclosure Statements received during the grant proposal process to the chair of the Objectivity in Research Committee.

In the event that federally funded research at the University is carried out through a subcontractor or collaborator, the University will require the subcontractor or collaborator to certify that its investigator/researcher is in compliance with a policy on objectivity in research that meets requirements of the federal sponsor's regulations. OSP will also monitor subrecipients for compliance.

5. Responsibility of the Office of Technology Commercialization (OTC)

OTC shall remind the investigator/researcher to submit an FDS to the chair of the OIR Committee when necessary. OTC will provide the chair of the OIR Committee with information requested, including a copy of the license, sale, or release agreement, if applicable. OTC will inform the chair of the OIR Committee prior to the execution of a license, sale, or release agreement.

XIII. Management Plan for Potential Conflict of Interest

If you believe that you need a Conflict of Interest Management Plan, please call ________ 's assistant at 787-___-____. Dr. ________is the chair of the Objectivity in Research Committee, and his office will be glad to help you determine whether or not you need a management plan. If a management plan is necessary, Dr. _________'s office will be happy to assist you with drafting the management plan.

Forms

Financial Disclosure and Conflict of Interest Form [Word]

Conflict of Interest Management Plan Annual Review Form [Word]