U PIVOT Center
Conflict of Interest
IP Best Practices
Policy 1-006: Individual Financial Conflict of Interest Policy

Revision 14. Effective Date: April 12, 2022

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I. PURPOSE AND SCOPE

A. Purpose:

The University serves society through the dissemination, discovery, and refinement of knowledge. In its pursuit of excellence in teaching, research, and service, the University is an institution based on the shared values of learning, diversity and inclusiveness, entrepreneurship, independent inquiry, respect for resources, collegiality, and community. Even when individual members of the University community work to accomplish these institutional objectives with these shared institutional values, individual financial conflicts of interest may naturally arise that have the potential to impair the judgment of the individuals involved in that work.

This policy establishes and describes the systems and processes through which the University identifies, evaluates, and manages financial conflicts of interest of individuals, without violating its institutional values. It uses disclosure as the key mechanism to bring potential financial conflicts of interest to light for evaluation and possible oversight. This policy also identifies types of financial conflicts of interest that are not allowed because they are a violation of law or are judged by the University to be a violation of its institutional values.

This policy establishes the Individual Conflict of Interest Committee and the position of Individual Conflict of Interest Officer to implement the policy. It is intended that the policy will be further implemented through adoption of various associated University regulations, including rules and procedures.

This policy and its associated University regulations are intended to comply with, and implement, the requirements of applicable federal regulations for federally funded Research, including Research funded through the Public Health Service, and shall be construed in accordance with such federal regulations and shall be deemed to include any requirements imposed by such federal regulations that are not otherwise expressly set forth in this policy and its associated University regulations.
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Conflict of Interest

A financial conflict of interest exists when an individual, or an institution, has financial interests that have the potential to influence, or bias, their responsibilities to the University.

Conflicts of interest, real or perceived, may manifest as:
• Bias in research or academic work
• Improper influence over University subordinates or students
• Undue influence on research participants
• Inappropriate uses of University funds or property
• Public allegations of unethical behavior.

Source: https://coi.utah.edu/
The Conflict of Interest Office supports the University community in identifying and managing financial conflicts of interest related to the following activities:

- Research
- Scholarly or Educational Activity
- Transactions (includes procurement, license negotiations, subawards, etc.)

We work with faculty, staff, postdoctoral fellows, students and others who are required to disclose external financial relationships to the University for evaluation. We also work with the Individual Conflict of Interest Committee to review and manage financial interests that create conflicts of interest.
Employees should submit a Conflict Reporting Form if they believe their financial interests create a conflict of interest with their University activities. If an employee is uncertain, the COI Committee will review the submitted Conflict Reporting Form to determine if a conflict of interest exists.

Submit an Conflict Reporting Form for these University activities if you believe your financial interests create a conflict of interest:

1. Unsponsored, or internally funded, Research that is not administered by the Office of Sponsored Projects or the Institutional Review Board.
2. Scholarly or Educational Activity.
3. Business Transactions, including, but not limited to, purchases, contracts, subcontracts, license negotiations, license agreements, etc.

Sponsored research administered by the Office of Sponsored Projects and human subjects research administered by the Institutional Review Board include built-in mechanisms for conflict of interest review, and do not need to be self-reported.
Case Studies
Conflict of Interest – Case #1

A University researcher is awarded an SBIR/STTR grant that includes a subcontract with a small business that the researcher has an ownership interest in.
Conflict of Interest – Case #2

A company offers a University researcher an honorarium for lectures related to the company’s economic interests that are related to an investigator's research.
Conflict of Interest – Case #3

As an expert in their field, a University researcher publishes textbooks that are often required by University courses.
Conflict of Interest – Case #4

A University researcher accepts a research contract with a restrictive publication clause
IP Best Practices
You’re not in Kansas anymore...

The patent process is not analogous to submitting a grant for funding or a manuscript for publication. It’s more akin to a student submitting a written examination and arguing over their answers after it has been turned in.

Patents are not awarded on the basis of scientific merit. Examination follows a rigid legal framework – be able to distinguish between what the law is from what the law ought to be.

Patents may be necessary part of a business strategy. However, they are never sufficient for a successful business strategy.
Public Disclosures & Publications

The history of public disclosure is as important to patentability than the technical merit of your invention with respect to patentability. Contact PIVOT before making any public disclosures.

Filing a patent application too early has it’s own set of problems, it can be just as bad as filing too late. Filing and publishing may limit your allowable claims to the earliest stages of an invention.

Your own publications or patents can be used against you as part of a novelty or obviousness rejection. There is a one-year grace period within the United States.
Provisional Applications

A provisional application does not confer any legal rights or “protection” upon the applicant, its only function is to establish a priority date for future non-provisional applications.

Claims which are not supported by the original provisional application do not receive the priority date of the provisional application.

Although new provisional applications can be filed, existing applications cannot be updated or amended to include new matter. Subsequent provisional applications do not receive the priority date of the first provisional application.
Ownership/Title

University faculty generally have already transferred their IP rights to their employer; sorting out ownership issues is usually straightforward. For independent individuals, special arrangements might be a good idea before inventing occurs.

Inventorship is a matter of law and is not the same as authorship. A patent with incorrect inventorship is invalid, though inventorship can be corrected at a later date under certain circumstances.

If government funding was used to support the invention, a myriad of administrative requirements need to be met for the University to have good title to the invention.
Other Considerations

Formal disclosure is not needed to speak with PIVOT and get some insight on formulating an early IP strategy. Don’t hesitate to contact us!

Patents are not the only mode of IP protection. Other forms (e.g. “know-how: or “trade secret”) are frequently a more effective means of protection, and can be licensed like any other form of IP.

Subject matter may be patentable, but have little economic value. PIVOT’s IP decisions are based on whether a patent’s claims will confer meaningful economic advantages upon the holder.
Thank you!