Appendix II

MSUN Policy 1003.6

MONTANA STATE UNIVERSITY NORTHERN

Administrative Policy and Procedures Manual

Section 1000: Campus Policy

1003.6 Conflict of Interest

Revised:
Review Date: July 2010
Responsible Party: Human Resources

Policy

This policy is adopted pursuant to Board of Regents' Policy 770, Conflict of Interest, and applies to the full-time administration, faculty, and professional staff at MSU-Northern. In addition to this policy, the conduct of these public employees is governed by Montana law, Standards of Conduct – Code of Ethics, Title 2, Chapter 2, Part 1, MCA.

100 Introduction

The administration, faculty, and professional staff of Montana State University-Northern (hereinafter, "the Campus") are committed to fulfilling the Campus' mission with integrity and in full compliance with state and federal ethics and conflict of interest laws and regulations and with Montana Board of Regents Policy. Pursuit of the mission often involves sustained interaction and activities of Campus employees with business, government, and community groups, as well as not-for-profit groups, professional societies, other academic institutions, and other individuals and organizations. These interactions and activities create the potential for conflicts of interest to arise. A conflict of interest may exist whenever an employee's work responsibilities, actions or decisions may be influenced by considerations of personal or financial gain through activities, contracts, or engagements undertaken by the employee with non-Campus entities. Such conflicts, real or apparent, can undermine public and professional confidence in the system, diminish its ability to accomplish its mission, and violate state or federal law.

The existence of a conflict of interest does not necessarily mean that the activity at issue violates law or must be avoided or discontinued; often, conflicts of interest can be dealt with effectively through disclosure and other steps to resolve or manage the conflict. Thus, an integral part of this policy is the disclosure and management system detailed in Sections 300-400 below.

This Policy is intended to enable employees to recognize potential conflicting interests and, thus, to protect themselves and the Campus from such conflicting interests through disclosure, evaluation, and, if required, management or elimination of conflicts of interest.

200 DEFINITIONS

210 Conflict of Interest. A conflict of interest occurs when:

A Campus employee has a personal interest that is inconsistent or incompatible with the employee's obligation to the Campus to exercise the employee's best judgment in pursuit of the interest of campus and its students;

A non-Campus activity unreasonably encroaches on the time an employee should devote to the affairs of the Campus; or

An employee's non-Campus activities unreasonably impinge on or compromise the loyalty or commitment to the employee's Campus duties and responsibilities.

In determining whether a conflict of interest exists, an important consideration is whether an independent observer might reasonably question whether the employee's professional actions or decisions are influenced by considerations of personal gain, financial or otherwise.

220 Significant Financial Interest. Anything of monetary value, including but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); ownership interests (e.g., stocks, stock options or other ownership interest); and intellectual property rights (e.g., patents, copyrights and royalties from such rights). Significant Financial Interest includes the interests of the employee's immediate family (i.e., spouse and dependent children). The term does not include:

An equity interest that when aggregated for the employee and the employee's immediate family, meets both of the following tests: has a value of $10,000 or less as determined through reference to public prices or other reasonable measures of fair market value, and represents a five percent or less ownership interest in any single entity.

Annual salary, royalties, or other payments that when aggregated for the employee and the employee's immediate family amount to $10,000 or less over 12 months.

Salary, royalties, or other remuneration received from or through the Campus.

Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities.

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

A financial interest arising solely by reason of investment in a business by a mutual, pension or other institutional investment fund over which the employee does not exercise control.

300 DISCLOSURE

The key mechanism for implementation of this Policy is disclosure. Disclosure allows the Campus and the employee to evaluate personal interests to determine if they present potential conflicts of interest and to take appropriate action based on the evaluation. All full-time Campus administrators, professional staff and faculty must complete and submit a Conflict of Interest Disclosure Statement form annually. All employees, including those exempted from the annual disclosure requirement, are required to comply with this Conflict of Interest Policy and to make disclosures of any potential conflicts of interest whenever they occur (using the Conflict of Interest Disclosure Statement form included as **Appendix A: PDF file, Word document**).

310 Circumstances Requiring Disclosure. All employees must disclose the following whenever they occur:

310.1 The acquisition by the employee, or a member of his/her immediate family, of a Significant Financial Interest, including employment, in an entity engaged in commercial activities directly related to the employee's Campus responsibilities.

310.2 Serving as an executive officer or as a member of the board of directors of an entity engaged in commercial activities directly related to the employee's Campus responsibilities.

310.3 An immediate family member serving as an executive officer or as a member on the board of directors of an entity engaged in commercial activities directly related to the employee's Campus responsibilities.

310.4 The planned direct participation in a Campus decision which would involve a direct benefit or detriment to:

A family member;
A person in whom or with whom the employee has a financial interest; or
A person with whom the employee has a consensual romantic relationship.

310.5 Any financial interest of the employee or an immediate family member in an entity involved in a Campus purchase or sale whenever the employee is in a position to recommend or approve the purchase or sale. Such interests must be disclosed to the Director of Business Services at MSU-Northern.

Note: This disclosure requirement does not include textbook adoptions when the employee is clearly identified as an author, contributor, or editor of the textbook under consideration. However, faculty members should not receive a profit as a result of recommending a specific vendor for the purchase of texts or course materials by their students, whether on-line or from other sources.

310.6 Participation as an employee, officer, board member, or owner in an entity which has (or wishes to have) rights to intellectual property for which you were an inventor or creator in your work for MSU-Northern as provided in Board of Regents Policy 407.

310.7 The acquisition of any personal or financial interest , including employment, which creates a potential conflict of interest.

310.8 Annual Disclosure. Annually, all employees (unless exempted as provided in Section 310.11 below) must complete and submit a Conflict of Interest Disclosure Statement (Disclosure Form) as follows:

310.9 Disclosure Forms shall be completed and filed by October 1 of each year.

310.10 The employee's signature on the Disclosure Form certifies that the employee has read and understands this Policy and that either (1) the employee does not have any interests which require disclosure, or (2) that the employee has appropriately disclosed any interests which create a potential conflict of interest.

310.11 The following groups of employees are exempt from the annual disclosure obligation (although they remain obligated to make disclosures under Section 310 above):

Employees working less than one-half time; and classified employees.

310.12 Disclosure Submission. All Disclosures shall be submitted to the Director for Human Resources, with copies to the Cabinet member overseeing the employee's supervisory line.

310.13 Optional Conflicts Management Plan Submission. Any of the above disclosures may be accompanied, at the employee's option, by a proposed conflict management plan. MSU's Office of Legal Counsel (994-4570) is available to answer questions or provide help with this plan.

400 DISCLOSURE REVIEW AND DISPOSITION

410 Initial Review. The Director of Human Resources shall review each form containing a disclosure and determine, in consultation with the responsible Cabinet-level supervisor or the Office of Legal Counsel, whether a conflict of interest exists. If the reviewer is not independent for any reason, then the Office of Legal Counsel shall be responsible for the review.

420 Waiver of Conflict. If a conflict is determined to exist, the Director of Human Resources, in consultation with the responsible Cabinet-level supervisor and/or Office of Legal Counsel, may waive the conflict and the need for a conflict management plan if they make the following written determinations:

That the conflict of interest is so remote that there is no significant probability for bias or undue influence on the employee's Campus duties and responsibilities; or

Any resolution of the conflict other than by disclosure and waiver would be ineffective or inequitable and the conflict is not prohibited by statute or regulation.

430 Conflict Management. If a conflict of interest exists and is not waivable, the Director of Human Resources, in consultation with the employee, the responsible Cabinet-level supervisor, and any others deemed helpful in assessing the situation, will develop a written conflict management plan to manage, reduce, or eliminate the potential for conflict of interest.

430.1 The conflict management plan may employ strategies including, but not limited to, the following:

Public disclosure of the Significant Financial Interest;
Monitoring of the relevant employment duties by independent reviewers;
Modification of duties of the employee;
Disqualification from participation in the conflicting employment activity, such as search committee, procurement, student advising, or employee supervision;
Divestiture of the conflicting interest; or
Severance of relationship that creates the conflict of interest.

430.2 Whenever a decision is made to manage rather than eliminate the conflict of interest, the Director of Human Resources, with advice from the Office of Legal Counsel shall make a written statement explaining why management is in the best interest of the Campus. Such statement may be included in the conflict management plan.

430.3 Relevant questions to consider in designing an appropriate conflicts management plan include, but are not limited to:

What is the magnitude of the financial interest?
What is the level of incentive created by the interest?
How direct is the link between the interest and the duties of the employee?
Could the conflict adversely affect students?
Could the conflict unreasonably interfere with the employee's commitment to Campus responsibilities?
Can a reasonably knowledgeable person be identified to monitor the conflict satisfactorily?

500 APPEAL PROCEDURE

510 Appeal to the Chancellor. If an employee believes the conditions or restrictions in the conflict management plan are inappropriate, the employee may appeal the decision to the Chancellor of MSU-Northern. The Chancellor's decision on the appeal shall be the final decision for the Campus.

520 Conflict Review Committee. If the Chancellor wishes to have the benefit of advice from a Conflict Review Committee, the Chancellor shall appoint a three-member committee. The members shall include employees or community members who have had no involvement in the decision being appealed and who have relevant experience or training to assess the conflict.

530 Montana University System Appeal. An employee who disagrees with the final decision of the Chancellor may appeal further as provided in the Board of Regents Appeal Policy, 203.5.2.

600 COMPLIANCE REPORTING AND RECORD RETENTION

The Director of Human Resources at MSU-Northern shall be responsible for maintenance of all disclosure and conflict management records for the period of time required by state and federal laws and regulations. Records will be maintained in a manner to protect sensitive and confidential information consistent with state and federal law.

700 COMPLIANCE

710 MSU-Northern expects all employees to comply fully and promptly with all requirements of this Policy. Breaches of this Policy include, but are not limited to: intentionally filing and incomplete, erroneous, or misleading disclosure form; failure to provide additional information as required; failure to provide a disclosure form required by this Policy; failure to remedy conflicts of interest; or failure to abide by a conflict management plan.

720 A violation of this policy may be the basis for discipline of an employee. Such discipline will be imposed consistent with the discipline policies and procedures applicable to the particular employee (collective bargaining agreement, Personnel Policies and Procedures Manual).

730 Potential sanctions may include, but are not limited to, the following:

Letter of warning;
Removal or suspension of privileges related to the violation;
Suspension without pay;
Termination.

800 TRAINING

All full-time administration, faculty, and professional staff will receive Conflict of Interest Training each year during fall orientation. Training will include information about the policy as well as the Conflict of Interest Disclosure Statement. Copies of the policy and statement will be provided to all appropriate staff.

APPENDIX A: PDF file, Word document

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