



Rensselaer

Human Resources Policy Guidelines (revised January 1, 2011)

800.11 Financial Conflict of Interest/Conflict of Commitment

Purpose All institutions must understand the ethical responsibility and service toward their peers, employees, students and society and follow appropriate guidelines regarding conflict of interest and conflict of commitment. Institute employees must use good judgment to protect themselves and to protect the Institute from potential conflicts of interest. By adopting this Conflict of Interest Policy, Rensselaer demonstrates its commitment to the ethical principles that guide Rensselaer's research and establishes a mechanism to safeguard Rensselaer, and faculty integrity and objectivity. This policy is intended to assist all members of the Rensselaer community, including faculty, staff, students, academic and administrative leaders and Rensselaer's Board of Trustees, with avoiding conflicts of interest or any appearance of conflicts between their own personal interests and the interests of the Institute. Any situation or activity involving a potential conflict of interest or conflict of commitment must be disclosed in advance. The premise of this policy is that each member of the Rensselaer community has an obligation to act in the best interests of the Institute, and must not permit financial and/or personal interests to interfere with that obligation.

The outline provided in the following policy is intended to assist Institute employees, students and members of the Board of Trustees in understanding and identifying what constitutes a conflict, evaluating possible conflicts of interest, how and when situations should be disclosed and who will determine whether the conflict needs to be managed, reduced or eliminated.

The intent of this policy is not to eliminate conflicts of interest in all cases, but to disclose and manage the conflicts using ethical principles. Through disclosure, individuals and the Institute can work together to prevent situations that harm or could harm the reputation of the Institute and its mission and objectives. In addition, there can also be a difference in opinions about whether a conflict of interest exists or not. Therefore, the best practice for Institute employees is to disclose the conflict to the appropriate authorities of the Institute **in advance** and seek advice and a review of the particular circumstances so a determination can be made by the Vice President for Human Resources in coordination with the Institute-wide Conflict of Interest Committee. This policy is also intended to increase the awareness of faculty, staff, students and other members of the Rensselaer community to the potential for conflicts of interest and conflict of commitment.

Definitions Business Transaction refers to the procurement of goods and services (including consulting and other types of contractual agreements), disposition of Institute

property, and use of Institute facilities. Being involved in a business transaction includes initiating, recommending or approving a purchase order or contract or a gift, grant or contract, preparing and/or negotiating the terms of a transaction or authorizing a payment from Institute accounts.

Conflict of Interest (Individual) occurs when the private interest of Institute employees interferes with their loyalty to Rensselaer, either in practice or appearance. Relationships or activities with outside entities may impair an individual's ability to be objective in the administration, management, instruction or research activities concerning their responsibilities at Rensselaer.

Conflict of Interest (Institutional) occurs when the financial interests of the Institute, as an entity, its trustees, departments or schools could benefit from the outcome of a research program or licensed technology. Institutional conflicts can also exist when trustees or academic and administrative leaders serve on boards that have significant commercial transactions with the Institute.

Conflict of Commitment occurs when an employee's involvement in outside activities substantially interferes with their primary commitment to Rensselaer, even if the outside activity is valuable to the Institute or contributes to the employee's professional development and competence.

Gift(s) means a voluntary and irrevocable transfer of money, services or property (for example, equipment, Intellectual Property, employees time and skill, etc.) from a donor without any expectation of or receipt of direct economic or other benefit or provisions of goods or services from the recipient. A gift also includes entertainment at no cost or at unreasonably discounted prices, from persons or entities doing business with the Institute, particularly in situations in which a reasonable person would infer that the intention of such gift was to influence decisions and actions on behalf of the Institute. An occasional lunch or dinner is not prohibited by this paragraph, nor is the receipt of an occasional holiday (or other) gift or attendance at a charitable event as a guest. Acceptance of a personal gift having more than a nominal value is prohibited under this definition.

Family means spouse, domestic partner, parents, siblings, children, dependents, or a member of the immediate household.

Institute Employees means all faculty, staff, academic and administrative leaders, officers, deans, department heads, trustees, and post-doctoral fellows.

Investigator means the principal investigator, co-investigator and any other person (e.g. post-doctoral fellow, graduate students, research assistants,

business managers) who are responsible for the administration, design, conduct and reporting (progress and financial) of sponsored research.

National Science Foundation (NSF) is an independent Federal agency created by Congress in 1950 to promote fundamental research and education in all the non-medical fields of science and engineering.

Outside Activity involves work, either professional or non-professional, for a non-Rensselaer entity or for oneself. Outside professional activities involve the use of an employee's expertise, the practice of their profession, or any interest that contributes to their professional competence and development.

Public Health Service (PHS) Awarding Component is the organizational unit that funds the research subject to the PHS, an operating division of the U.S. Department of Health and Human Services.

Research means the study, material evaluations, training, instructional projects and general research projects that are fully or partially funded from outside sources under agreements which contain any of the following:

- Binds the Institute to scientific inquiry at a specified level of detail;
- A line-item budget is included (expenses by activity, indirect costs, project period);
- Submission of financial and technical reports;
- Subject to external audit;
- Unexpended funds must be returned; or
- Disposition of property.

Significant Financial Interest means:

- salary or other payments for services (e.g. consulting, honoraria, or gifts);
- equity interests (e.g. stocks, stock options or other ownership interests); or
- intellectual property rights (e.g. patents, trademarks, copyrights, royalty income and future royalties from such rights).

The term does not include:

- salary or other remuneration from the Institute;
- income from seminars, lectures or teaching engagements sponsored by public or nonprofit entities, or editorial activities on behalf of professional journals;
- income from service on advisory committees or review panels for public or nonprofit entities; or

- salary, patents, copyrights, royalties or other payments that, when aggregated for the employee or family member are not expected to exceed \$10,000 over the next 12 months or does not represent an amount equal to or greater than a 5% ownership interest.

Small Business Innovation Research (SBIR) is a set-aside program to provide resources to domestic small businesses so they may complete the research and development activities that are needed for the commercialization of owned or licensed intellectual property. This was established under Public Law 97-217, the Small Business Innovation Development Act, as amended. For purposes of this policy, the term **Small Business Technology Transfer (STTR)** established under Public Law 102-564 is also included.

Technology Transfer is the process of transferring the practical knowledge that is the result of scientific research and includes the licensing of intellectual properties in which the Institute acquires equity or ownership rights.

Policy The primary mission of Rensselaer is to offer strong educational programs. Our goal is to be a top-tier world-class technological research university with global reach and global impact. Our basic objectives are to provide the best possible educational experience for Rensselaer's students, to provide the proper environment for Rensselaer's faculty to teach and do research, and to maintain the Institute on a sound financial footing. We cherish and preserve the principals of academic freedom. Promoting secrecy harms the progress of science and diminishes the role of the Institute as an impartial and credible resource. All employees must be committed to Rensselaer's objectives and recognize that their primary responsibility is to the Institute. Sound higher education should enhance the best intellectual, social, and personal development of the university community. Employees should recognize a shared responsibility to ensure that they conduct themselves in an unbiased manner and serve the goals and objectives of Rensselaer. It is thus the responsibility of Rensselaer and its employees to guard against conflicts of interest and commitment which might compromise the integrity and objectivity of our community.

Private interests such as outside business activities or financial relationships can be or can be perceived to be in conflict with the Institute's mission or interfere with an individual's primary responsibility. A conflict of interest does not mean the activity is wrong. Because of Rensselaer's research endeavors, the Institute must be careful to maintain objectivity and not have personal gain influence decision making.

Rensselaer's policy is to avoid ethical, legal or financial conflicts of interest whether apparent, potential or perceived. It is recognized, however, the faculty

and staff activities, such as, outside employment, consulting and their financial interests, extend beyond that of Rensselaer. Engagement in outside activities is permitted provided such activity is disclosed in advance leading to a discussion of the conflict of interest or conflict of commitment so that it can be managed, reduced or eliminated when necessary.

Research faculty must certify that they have disclosed any financial interest (and that of their immediate family) related to a Public Health Service, National Institutes of Health or National Science Foundation proposal. Prior to award, Rensselaer must determine how the potential conflict will be managed, reduced or eliminated. (Reference: Code of Federal Regulations (CFR) Title 42, Part 50, Subpart F and NSF 05-131, Chapter V-Grantee Standards)

This policy does not apply to charitable or volunteer community service activities.

This policy applies to all Rensselaer employees (full and part-time), including faculty (research and teaching), academic and administrative leaders, staff, officers, trustees, deans, department heads, students and post-doctoral fellows, unless otherwise excluded.

Types of Conflicts **Category I Individual Conflicts of Interest**

An individual conflict of interest occurs when the private interest of Institute employees interferes with their loyalty to Rensselaer, either in practice or appearance. Relationships or activities with outside entities may impair an individual's ability to be objective in the administration, management, instruction or research activities concerning their responsibilities at Rensselaer.

The potential for a perceived or actual conflict of interest in a **business transaction** can occur when:

- An Institute employee (or member of their immediate family) is an officer, director, employee, proprietor, partner, trustee or stockholder in or is in a position to personally profit from the company seeking to do business with Rensselaer;
- An Institute employee has an interest in a company that is in competition with a firm already doing business with Rensselaer and that employee's position provides him/her with access to proprietary information about a company which could help the company in which he/she has an interest; or
- Use of information received as an Institute employee for personal purposes.

The potential for a perceived or actual conflict of interest in **research** can occur

when an employee's interest in personal financial gain outweighs the employee's professional objectivity. Caution must be exercised when:

- A faculty member is being paid consulting fees; or
- A faculty member is sharing in royalties as a result of commercialization of their research.

Identifying conflict of interest is not a simple task. A member has a conflict of interest if his or her judgment and discretion in research or in other matters affecting Rensselaer is or may be influenced by considerations either of a personal gain or financial benefit. Some examples of Individual Conflicts of Interest (not inclusive) are listed below:

- Ownership of or a substantial financial interest in a business with whom Rensselaer may do business;
- Acceptance of gifts or entertainment from suppliers or potential suppliers;
- Acceptance of employment as an officer, director or any management capacity in a public, commercial, industrial, financial or other organization which transacts business with Rensselaer or wants to do so;
- Use of the Rensselaer name in such a way that would imply Institute sponsorship;
- Relationships that might influence decisions that would lead to personal gain;
- Directing students into a research area or other activity that would lead to personal gain;
- Requiring others to purchase a product in which there is a proprietary interest and from which income will be received;
- Accepting a position on a scientific or administrative board or an organization that has research contracts with Rensselaer;
- Directly or indirectly lease, rent, trade or sell real or personal property to Rensselaer;
- Being in a position to influence contractor selection or limiting competition in purchasing supplies or services;
- Recommending that a graduate student pursue research in an area in which the commercialization of the product would bring financial benefit to the faculty member;
- Submitting a proposal and acting as principal investigator on a research project at another institution;
- Requesting a sole source procurement of material or services from a company in which an Institute employee or a member of that individual's immediate family has a consulting or employment relationship with and/or significant financial interest in the proposed company;
- Assigning duties or offering employment to students in a faculty member's

outside activity when the student is enrolled in a course being taught by the faculty member or the student's academic work (including work as a teaching or research assistant) is being supervised by that faculty member;
or

- Engaging in the unauthorized use or dissemination of confidential, privileged or proprietary information obtained as a result of your employment at the Institute.

Category II – Conflict of Commitment

A conflict of commitment relates to an individual's distribution of effort between Institute employment and commitment to external business, professional or other activities. All external activities must be arranged so as not to interfere with the primary commitments following Rensselaer's policies and procedures. A conflict of commitment occurs when the external activities interfere with the employee's primary obligations and commitments to Institute responsibilities.

Examples of Conflicts of Commitment (not inclusive)

- Agreements that involve frequent or prolonged absences from Rensselaer on non-Institute business (e.g. faculty absences that are in excess of the one day/week or 4 days/month that are allotted per the Faculty Handbook).
- Agreements that reduce the amount of time expected to perform Rensselaer job responsibilities.

Category III - Institutional Conflict of Interest

The potential for institutional conflict of interest occurs when the financial interest of the Institute might affect, or appear to affect, the oversight, conduct, direction, or review of research. Ownership of equity interests or royalties derived from Institute inventions, start-ups or other technology transfer are areas of concern.

Examples of Institutional Conflict of Interest (not inclusive)

- When the institution, any of its senior management or trustees, or a department, school, or other sub-unit, or an affiliated foundation or organization, has an external relationship or financial interest in a company that itself has a financial interest in a University faculty research project.
- A company proposes to provide research funding to the University for further development of a technology previously licensed by the University

to the company and from which company a University's financial interest is derived (e.g., a royalty stream).

- A company proposes to provide funding for a clinical trial of a product or device that was developed by the company with the use of University-owned technology previously licensed to the company and from which University financial interest is derived.
- When the institution, any of its senior management or trustees, or an affiliated foundation or organization, invests in an entity with which the Institution does business.
- Seeking to influence the award or terms of a University contract, including but not limited to research contracts, with an external entity because of a past, present or future gift from the external entity.

Examples of Permissible Activities

- Services to external professional, educational, scientific, artistic, cultural, civic, business or other organization which enhance the value of the individual and the Institute but do not adversely affect the individual's primary commitment to the Institute;
- Acceptance of royalties or honoraria for published papers and lectures;
- Ownership of stock or mutual funds in a company unless the holdings are considered a significant financial interest (see Definitions); or
- Attending or presenting at professional meetings, workshops, colloquia, symposia, seminars, or training programs.

Disclosure Reporting Requirements

General (All Institute Employees)

Procedure

It is the responsibility of every employee to discuss with his or her supervisor who will then involve their Portfolio Vice President or the Provost **AND** the Vice President of Human Resources in any situation or activity that might result in a conflict of interest or a violation of this policy before participating in that situation or activity. An employee must refrain from participating in any questionable activity unless and until the employee is expressly permitted to do so by his or her Supervisor. Any supervisor to whom a disclosure is made shall determine whether the questionable situation or activity presents a potential conflict of interest. Unless the supervisor is able to determine that no such potential conflict of interest exists, the supervisor shall require the employee to disclose the activity in writing, and the disclosure will be kept in confidence and will only be shared with appropriate authorities. The entire situation shall be reviewed with the appropriate staff before determining whether the employee should be permitted to participate in the particular situation. The supervisor, in turn, shall not permit any employee to participate in any questionable activity

unless and until the case has been reviewed, discussed and the activity disclosed to the appropriate authority. Such a determination shall be set forth in writing.

All Institute employees who anticipate or suspect a situation where a conflict of interest may be present must fully disclose and obtain approval prior to engaging in the activity. Updates of such information will be requested on an annual basis by the Vice President for Human Resources. Disclosure applies to the activities of the immediate family of Institute employees as well. Specifically, the following outside activities must be disclosed:

- a. Those in which use of the Institute's facilities, equipment, and/or services will be more than incidental. The completed Conflict of Interest and Commitment Disclosure Form is required to be attached to the Request to use these facilities, equipment or services.
- b. Those activities in which an Institute student or employee is directly or indirectly supervised by an Institute employee if that employee in any way supervises or evaluates the student or the employee at the Institute.
- c. Management, employment, consulting, and contractual activities with, or ownership interests in, a business entity which does business with the Institute. When involved in procurement decisions, a copy of the Conflict of Interest and Commitment Disclosure form must be attached to the requisition to purchase.
- d. Management, employment, consulting, and contractual activities with, or ownership interest in, a business entity which competes with the Institute.
- e. Candidacy, election or appointment to a public office.
- f. Requiring the use of instructional resources (e.g. books, supplies, equipment) at the Institute when they have been created or published by Institute employees or that person has a financial interest in the creation or publishing of the material.
- g. Employment as an expert witness, teaching at another institution, or honoraria (beyond travel expenses) for which Institute employees are compensated.
- h. Service on the board of directors, committees, advisory groups or other management positions, in a business entity in the same field in which the faculty or staff member is employed.

- i. Any employment, contractual relationship, or financial interests of the employee which may create a continuing or recurring conflict between the employee's interests and the performance of the employee's public responsibilities and obligations, including time commitments. This includes any outside activity in which the employee is required to waive rights to intellectual property.

For Researchers (Those with research sponsored by PHS or NSF)

Researchers conducting research funded by the Public Health Service (including the National Institutes of Health) and the National Science Foundation are subject to agency specific regulations. These regulations set forth the obligations of researchers, sponsors and institutions for research involving significant financial or other conflicts of interest, and affected parties are advised to review the relevant regulations prior to submission of a research proposal or application. Links to these regulations are:

NSF Grant Policy Manual –

http://www.nsf.gov/pubs/manuals/gpm05_131/gpm5.jsp

NIH Grants Compliance and Oversight –

<http://grants2.nih.gov/grants/compliance/compliance.htm#glance>

PHS Responsibility of Applicants for Promoting Objectivity in Research

http://grants.nih.gov/grants/compliance/42_CFR_50_Subpart_F.htm

SBIR/STTR (U.S. Small Business Administration, Office of Technology) –

<http://www.sba.gov/SBIR/>

ATP (National Institute of Standards and Technology, Advanced Technology Program) – <http://www.atp.nist.gov/>

A general description of what is required is:

- Research proposals must contain conflict of interest disclosures **IN ADVANCE** of the submission. Researchers must disclose all significant financial interests (including those of their immediate family) that:
 - (a) would reasonably appear to be affected by the research or educational activities funded by the agency; or
 - (b) are in entities that would reasonably appear to be affected by such activities.
- If there is no significant financial interest at the time of submission but one

develops prior to award or during the funding period, it must be immediately reported.

- If there is no significant conflict of interest, conflict of commitment or report of financial interest, the researcher must certify such annually on their *Conflicts of Interest and Commitment Disclosure Form*.
- Financial disclosures are to be indicated on the Conflict of Interest and Disclosure Form and will be reviewed by the Division of Human Resources to determine if a conflict of interest exists and determine what conditions or restrictions should be imposed, if any, to manage, reduce or eliminate the conflict of interest. The Division of Human Resources in collaboration with the Division of Research will decide if the significant financial interest could affect the design, conduct, or reporting of the research or educational activity.

Management of Policy

General (All Institute Employees)

- The Vice President for Human Resources shall annually conduct a conflict of interest survey of all applicable employees and trustees of the Institute.
- Employees shall promptly disclose all potential conflicts of interest and conflicts of commitment in conformance with this Policy.
- The Vice President for Human Resources, in coordination with the Institute-wide Conflict of Interest Committee, shall review all disclosure forms and determine if a conflict of interest or conflict of commitment exists and if so, what actions are to be taken. Decisions will be based on what is in the best interest for Rensselaer. The individual disclosing the potential conflict of interest or conflict of commitment cannot be involved in the decision process.
- At least annually: the Vice President for Human Resources shall report all conflicts and resolutions to the Audit Committee of the Board of Trustees; and the Chairperson of the Audit Committee of the Board of Trustees shall report all conflicts and resolutions to the Board of Trustees.

Addressing conflicts and developing management strategies requires the collaboration of all parties involved and may require one or more of the following:

- 1) No action beyond disclosure;
- 2) Disclosure and management (including alteration or elimination of the conflict); or

3) Prohibition of the activity.

For Researchers

All financial disclosures will be reviewed by the Vice President for Human Resources and the Institute-wide Conflict of Interest Committee to determine if a conflict of interest or conflict of commitment exists and what actions are to be taken to manage, reduce or eliminate that situation. If the disclosure is determined to be a significant financial interest that could affect the design, conduct or reporting of the research, one of the following management strategies could be imposed:

- o Public disclosure of the significant financial interest;
- o Monitoring of the research by independent reviewers;
- o Modification of the research plan;
- o Disqualification from participation in all or a portion of the research;
- o Divestiture of significant financial interests; or
- o Severance of the relationships that create the actual or potential conflicts.

Remedies and Non-Compliance

General (All Institute Employees)

Employees who fail or neglect to disclose potential conflicts of interest or conflicts of commitment will be subject to normal disciplinary processes contained in the Human Resources Policy Guidelines and the Faculty Handbook.

For Researchers (All Sponsored Research Activity)

If a researcher fails to comply with this Conflict of Interest/Conflict of Commitment Policy, disciplinary action ranging from a written reprimand to termination of employment could be imposed.

If the failure to comply with this Conflict of Interest/Conflict of Commitment Policy concerns research funded by PHS, the following actions must take place:

- o The Institute must promptly notify the PHS Awarding Component of the corrective action taken or to be taken. The PHS Awarding Component will consider the situation and take appropriate action. This action may include instructions regarding how to maintain appropriate objectivity in the funded project.
- o If requested, Rensselaer must make conflict of interest information

available to the Department of Health and Human Services (HHS). HHS will maintain confidentiality of all records of financial interests. As a result of their review, the PHS Awarding Component may determine that the Institute has not adequately managed, reduced or eliminated the conflict of interest and may suspend funding until such matter is resolved.

- o In the event the research was to evaluate the safety or effectiveness of a drug, medical device, or treatment and a conflict of interest was not disclosed, the researcher must disclose the conflicting interest in each public presentation of the results of the research.