



## **Conflict of Interest in Research or Development**

*(Approved by the President on May 9, 1997)*

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### **I. INTRODUCTION**

Maryland law encourages public senior higher education institutes to promote economic development in the State and to increase their financial resources through arrangements with the private sector, including collaborative research and development, commercial application of institution-owned intellectual property, and provision of technical assistance. UMBI supports programs to foster economic development in the state and region and programs for commercializing and transferring university-produced technology to the private sector and providing campus affiliations to emerging private high-technology firms. Confidence and trust is eroded, however, when state and university business is subject to improper influence. The Maryland Public Ethics Law establishes certain conditions under which officials and employees may have relationships with entities involved with research or development.

Outside activities of an official or employee must not interfere with the primary commitment to the mission of the university. The Board of Regents of the University of Maryland System (UMS) has enacted a Policy on Professional Commitment of Faculty (BOR. II-3.10), which addresses external commitments and general conflict of interest concerns of faculty. In addition, the Board of Regents has enacted a Policy on Conflicts of Interest in Research or Development (BOR. III -1.11), which allows officials and employees to have certain relationships with businesses involved in research or development provided certain conditions are met consistent with the Maryland Public Ethics Law.

### **II. POLICY**

- A. A present or former official or employee of the University of Maryland Biotechnology Institute (UMBI) may have a relationship (as defined herein) with an entity engaged in research or development, or an entity having a direct interest in the outcome of research or development, if such relationship is disclosed and approved by the President of UMBI in accordance with these policies and procedures.
- B. The President, or a Vice President or one holding any other similar position designated by the UMS Board of Regents may have such a relationship only if the UMS Board of Regents makes the following findings:
  - 1. The relationship is necessary to the success of the research or development activity; and
  - 2. any conflict of interest can be managed consistent with the purposes of relevant provisions of the Public Ethics Law.
- C. If the above conditions are not met, this Policy does not exempt a former or present official or employee from any of the provisions of the State Ethics Law.
- D. Nothing in this Policy allows an exemption on the part of any official or employee of the UMBI from the provisions of Sec. 15-505 (Solicitation and Acceptance of Gifts) of the State Government Article. Further, an official or employee of the UMBI may not (1) represent a party for contingent compensation in any matter before the Board of Regents or before the State's Board of Public Works, or (2) intentionally misuse his or her position

with the UMBI for personal gain or for the gain of another person.

- E. The approval of a relationship under this policy does not relieve the official or employee from the obligation to comply with other UMS and UMBI policies, including the Board of Regents' Policy on Professional Commitment of Faculty (BOR. II 3.10).

### III. PROCEDURES - OVERVIEW

These procedures implement the UMS Policy on Conflicts of Interest in Research and Development (BOR III -1.11), and apply to situations where an "official," (hereinafter defined as the President, Vice President or an individual who holds a similar position) a faculty member or other employee seeks to hold an interest in, serve as an employee, director, or officer of, or maintain any other relationship (as defined herein) with an entity which:

- (i) Is engaged in or participates in research or economic development; or
- (ii) has a direct interest in the outcome of research or development.

- A. An official, faculty member, or other employee of UMBI may have an interest in or serve as an employee, director, or officer of or maintain any other relationship (as defined herein) with an entity engaged in research or development, or an entity having a direct interest in the outcome of research or development if:

1. The interest, service, employment, or other relationship is disclosed on a form filed with the Assistant Vice President of Academic Affairs and is maintained as a public record in the Office of Academic Affairs. A copy of the form must also be filed with the State Ethics Commission. An annual report shall also be required for any interest, service, employment or other relationship that lasts more than a year.
2. The interest, service, employment, or other relationship will not: (a) give improper advantage to the entity with which the relationship exists; (b) lead to misuse of institution students or employees for the benefit of such entities; or (c) otherwise interfere with the duties and responsibilities of the official, faculty member or other employee maintaining the relationship.
3. The interest will not constitute a harmful interest as defined in these procedures or otherwise present an unacceptable conflict of interest.
4. The interest service, employment, or other relationship with the entity is approved by the UMBI President in accordance with these procedures.

- B. If the requirements of these procedures are not met, the official, faculty member, or other employee is not exempt from any of the provisions of the Maryland Public Ethics Law. Approvals granted under these procedures do not affect the application of other University of Maryland System or UMBI policies, including the Board of Regents' Policies on Patents, Copyrights, and Professional Commitment of Faculty, or the obligation to adhere to provisions of the Maryland Public Ethics Law relating to prohibited gifts.

- C. Notwithstanding any approval under these procedures, an official, faculty member, or other employee may not (1) represent a party for contingent compensation in any matter before the UMS Board of Regents or the State's Board of Public Works, or (2) intentionally misuse his or her position with the UMS for personal gain or for the gain of another person.

### IV. SPECIFIC PROCEDURES AND GUIDELINES

#### A. Request and Disclosure Provisions

1. In order to facilitate the disclosure and review process, each official, faculty member, or other employee who proposes to hold a relationship pursuant to these procedures is required to complete the Research or Development Interest Form (Appendix A) at the time approval of the relationship is requested. This form must also be completed at such time(s) as the circumstances of the official, faculty member or other employee concerning the interest change, annually beginning one year from the date of the initial approval under these procedures, and upon termination of the approved activity.
2. The completed disclosure shall fully describe the relationship and provide such other information as may be required for an adequate review. The official, faculty member, or other employee should also provide any supporting documentation and/or attachments, as necessary, to assist in describing the relationship.
3. It is the responsibility of the official, faculty member, or other employee to request approval of any relationship in a timely manner. The forms shall be available from the UMBI Office of Academic Affairs and should be returned to the Assistant Vice President for Academic Affairs upon completion. The official, faculty member, or other employee should maintain a copy of the disclosure and any attachments for their file.

#### B. Review Process

Within thirty (30) days of receipt by the Office of Academic Affairs, the Vice President for Academic Affairs shall conduct an initial review of the form and shall convene the President's Advisory Committee on Conflict of Interest. The Committee shall consist of three voting members appointed by the President. These members shall normally include a faculty member, a member of the UMBI administration, and the Assistant Vice President for Academic Affairs, unless circumstances exist which would make it inadvisable or impracticable for such persons to serve on the Committee.

The Committee shall be responsible for reviewing the Research and Development Interest Form at the time of the initial request and shall determine if any further information must be disclosed and shall review the request at each subsequent filing to determine whether or not the disclosed interest represents a harmful interest, is an unacceptable conflict of interest, or is otherwise in violation of the policies, procedures, and best interests of UMBI. If the justification for the proposed activity involves economic development issues or federally funded research, the Committee may consult with the Department of Business and Economic Development and with federal agencies, as necessary, in reviewing the request.

The Committee shall make recommendations of restrictions designed to manage, reduce, or eliminate any actual or potential conflict of interests. Approval of the proposed relationship shall not be recommended unless the requirements set out in Section III.A. of these procedures are met. The Committee's recommendations must be supported by a majority vote of the Committee members. Within thirty (30) days of receipt, the Committee shall prepare a report of its recommendations and forward it to the Vice President for Academic Affairs and to the President. The Vice President for Academic Affairs shall review the report and the recommendations of the Committee and make a

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final determination of the appropriateness and feasibility of the proposed restrictions. The Vice President for Academic Affairs shall provide any comments on the report and recommendations to the President within one week, or as soon as practicable.

If the request is submitted by an official, either the President, Vice President or persons in similar positions, the Committee shall submit its report of its recommendations within thirty (30) days to the Chancellor, or designee, for review and approval by the Board of Regents.

### C. Approval Process

The faculty member or other employee will be notified of the decision by the President. The President must approve each exemption in writing. Approval shall not be granted unless the requirements of Section III.A. of these procedures are met. The President's determination is final. The approval may be subject to such conditions or restrictions as the President requires. Approval may be withdrawn if it is determined that the official, faculty member or other employee misrepresented the nature of his or her interest in the entity, or if circumstances change in such a way as to create an unacceptable conflict of interest.

The Chancellor will notify in writing the official (the President or Vice President or persons in similar positions) that their request has been approved by the Board of Regents.

### D. Additional Operating Guidelines

1. Officials, faculty members, and other employees with relationships approved under these procedures shall:
  - a. ensure that their activities, statements, evaluations, recommendations, judgments, and documentation of research/economic development programs do not give an improper advantage to the outside entity;
  - b. ensure that unauthorized statistics, documents, reports, comparison information, and other data are not disclosed which would improperly give advantage to the outside entity because of its affiliation with the faculty member;
  - c. be aware that legal restrictions regarding any misuse of their position for personal gain or gain of another, solicitation or acceptance of improper gifts, and representing a party before the Board of Regents, the Board of Public Works, or other State or local agency for a contingent fee, continue to apply, notwithstanding any approval under these procedures;
  - d. continue to adhere to other UMS and UMBI policies, including the Board of Regents' Policy on Professional Commitment of Faculty.

## V. UMBI RECORD KEEPING AND REPORTING PROCEDURES

- A. The UMBI Office of Academic Affairs shall submit quarterly reports of all approvals granted under these procedures and any concerns or issues raised in the implementation of the procedures to the Chancellor.
- B. UMBI shall develop and maintain a file, available for public review, which will contain (1) all the approved exemptions with applicable disclosure statements, and (2) all disapproved requests for exemptions with applicable disclosure statements when such

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requests relate to existing rather than proposed relationships. This file shall be maintained at UMBI Administration headquarters by the Office of Academic Affairs, with copies of forms and attachments sent to the State Ethics Commission.

### VI. COMPLIANCE WITH PHS/NSF CONFLICT OF INTEREST POLICY AND PROCEDURE

Each official, faculty member, and other employee submitting a proposal or renewal application for funding to the Public Health Service (PHS) (including all Institutes) and/or to the National Science Foundation (NSF) shall also be required to comply with the UMBI Policy and Procedure for Identification and Management of Conflict of Interest for PHS/NSF Sponsored Activities- Supplement to Procedures On Conflict of Interest or Development.

### VII. DEFINITIONS

- A. "Harmful interest" means an interest which is found to be so influential as to impair impartiality in the conduct of the research, the interpretation or the results of the research, and/or the determination of research or other professional and employment priorities.
- B. "Relationship" means any interest, service, employment, gift, or other benefit or relationship with an entity, that would be prohibited by the State's Public Ethics Law if not disclosed and approved pursuant to this Policy and procedures adopted pursuant to it. "Relationship" includes any relationship of the spouse or other relative of an officer or employee if such relationship creates restrictions on the officer or employee under the conflict of interest provisions of the Ethics Law.
- C. "Research or development" means basic or applied research or development, and includes the development or marketing of university owned technology, the acquisition of services of an official or employee by an entity for research and development purposes, or participation in State economic development programs.

#### RECOMMENDED:

S. Gaylen Bradley, Ph.D. Vice President Academic Affairs

#### APPROVED:

Rita R. Colwell, Ph.D., D.Sc. President

#### Appendix A

[University of Maryland Biotechnology Institute Research or Development Interest Disclosure Form Annual Management Report on Potential Conflict of Interest form](#)