

## University Policy 545: Individual Conflicts of Interest

**Category:** Operating Policies

**Subcategory:** General

**Covered Individuals:** All Employees, Trustees, Researchers, and Volunteers

**Responsible Executive:** Vice President for Legal Affairs

**Policy Custodian:** Chief Compliance Officer

**Last Revised:** 2022/06/24

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### 545.1 PURPOSE AND SCOPE

Utah State University (“USU”) is committed to a culture and environment where its community members are encouraged and obligated to carry out their duties and responsibilities in a transparent, objective, lawful, and ethical manner. This culture and environment are intended to protect the integrity and reputation of, and the public trust in, both the institution as a whole and its individual community members. As USU community members seek to accomplish USU’s mission, individual conflicts of interest may arise. If left unidentified or unmanaged, conflicts of interest can influence, or appear to influence, the performance of professional duties or professional judgment and objectivity.

This Individual Conflict of Interest Policy (“Policy”) establishes principles and an operating framework for the disclosure of relevant relationships and outside interests of individuals and the avoidance and/or management of identified individual conflicts of interest. Proper management of individual conflicts of interest facilitates USU’s compliance with the requirements of state and federal law and of third parties with whom USU has a contractual relationship.

This Policy governs conflicts of interest for all [Employees](#), [Benefited Employees](#), [Trustees](#), and [Researchers](#), as defined herein. This Policy contemplates the use and maintenance of appropriate procedures, forms, and practices to seek disclosures, assess potential conflicts, and deploy appropriate management planning or other appropriate steps. This Policy and its associated procedures are intended to comply with, and implement, the requirements of applicable federal laws and regulations (particularly 42 C.F.R. pt. 50 and 45 C.F.R. pt. 94 for Public Health Service-funded research and PAPPG, Chapter IX.A for National Science Foundation-funded research) and the requirements of all applicable state laws (particularly Utah Public Officers’ and Employee’s Ethics Act, Utah Code 67-16). This Policy will be construed in accordance with such regulations and laws and shall be deemed to include any requirements imposed by such regulations and laws that are not otherwise expressly set forth in this Policy and its associated procedures.

### 545.2 POLICY

#### 2.1 Conflicts of Interest

An individual conflict of interest refers to a situation in which an individual’s financial, professional, or other personal considerations or interests may directly or indirectly affect an individual’s professional judgment in exercising any professional duty or responsibility, including the design, conduct, and/or reporting of research. The following categories of individual conflicts of interest are addressed in this Policy: (1) financial conflicts of interest, and (2) conflicts of commitment.

2.1.1 Financial Conflicts of Interest. An individual financial conflict of interest (“FCOI”) arises when the personal financial interests of a person conflict with their professional University-assigned responsibilities. An FCOI would exist when a person stands to benefit from a transaction directly or indirectly where USU is a party, and that person has decision-making authority over or influence of the terms of the transaction. Indirect benefits include, for example, benefits realized by a spouse, dependent child, family member, or close personal relation of the person. Common types of FCOIs include transactions between USU or USU students and an entity in which a covered individual has a financial interest, acceptance of a gift from a client or similar type of person, or the use of USU’s confidential or proprietary information for personal financial benefit.

2.1.2 Conflicts of Commitment. An individual conflict of commitment, also referred to as a conflict of allegiance, arises when a person’s distribution of time and effort between their professional duties conflicts with their responsibilities resulting from other commitments. Employees must dedicate sufficient time and effort to fulfill their assigned duties and responsibilities in a professional and competent manner. Benefited Employees owe their primary professional allegiance and commitment to USU toward the fulfillment of their assigned duties and responsibilities. Outside commitments that might result in a conflict of commitment include, for example, a second job, owning and/or operating a private business, professional and other responsibilities that are outside of the core scope of an Employee’s responsibility, consulting arrangements, or other commitments that interrupt the fulfillment of a person’s professional duties at USU. Procedure 545-PR1, “Disclosing Outside Interests,” provides additional guidance concerning conflicts of commitment.

## 2.2 Disclosures

2.2.1 Required Disclosures. To ensure proper evaluation, monitoring, and management of individual conflicts of interest, Trustees, Employees, and Researchers, and Trustees must disclose certain financial, professional, or other personal considerations or interests. Such individuals must make these disclosures by completing and submitting a USU-approved conflict-of-interest disclosure form. Such disclosure forms include a series of questions designed to identify outside interests (including those of close relatives and household members) and may be delivered and collected through physical or electronic means. Disclosures will be collected, reviewed, and assessed for potential and actual conflicts of interest per the applicable procedures established by USU and in effect at the time of the review. For further information see Procedure 545-PR1, “Disclosing Outside Interests.” For information about USU’s practices for identifying outside interests that give rise to a conflict of interest that must be managed, see Procedure 545-PR2, “Outside Interest Assessment and Conflict of Interest Determinations.” Further information regarding the requirement to disclose foreign interests as required by federal agencies is available in Procedure 545PR4, “Disclosing Foreign Interests.”

2.2.2 Disclosure Schedule. Disclosures in keeping with Section 2.2.1 must be submitted by the following persons as follows:

- (1) Benefited Employees- upon hire, annually thereafter, and as prescribed in applicable procedures.
- (2) Researchers- upon hire or inclusion in an externally funded project, annually thereafter, and as prescribed in applicable procedures.
- (3) Employees who are not Benefited Employees and other Agents- as prescribed by applicable procedures.
- (4) Trustees- upon appointment, annually thereafter, and as prescribed in applicable governing documents.

Benefited Employees, Researchers, and Trustees must update and keep current their disclosures to include previously undisclosed outside interests as they arise. Interests that may prompt an updated disclosure include, for example, when (a) a person or a person’s family member becomes involved in or purchases a business that has had or could have business dealings with USU; (b) an Employee is promoted to a new position or assumes new decision-making responsibilities at USU that conflict with outside interests; (c) an Employee’s expected time at or obligations to work are affected by new outside

interests; (d) circumstances relating to a person's responsibilities or influence are changed because of actions taken or decisions made by USU, its administrators, or other third parties; or (e) an Employee undertakes a consulting arrangement pursuant to Policy #377, "Consulting Service."

### 2.3 Managing Conflicts of Interest

Identified conflicts of interest must be either eliminated or otherwise appropriately evaluated, monitored, and managed. A conflict-of-interest management plan is a written document that outlines the allocation of responsibilities between (i) the person with the conflicting interest(s), their department, and their supervisor or (ii) a Trustee and USU as an institution. Conflict-of-interest management plans must be maintained and complied with until the identified conflict of interest no longer exists. Instructions to persons that will have responsibility for developing a conflict-of-interest management plan will be provided to the affected discloser, the responsible supervisor, the responsible department head or center director (if different from the supervisor) and the responsible dean or vice president, as set forth in 545-PR2, "Outside Interest Assessment and Conflict of Interest Determinations." USU prohibits certain activities and transactions where conflicts of interest are inherently unmanageable or prohibited by applicable state and federal law and other applicable USU policies or related procedures. Prohibitions arising from the "Utah Public Officers' and Employees' Ethics Act" are addressed in Procedure 545-PR3, "Prohibition of Certain Activities under Utah Law."

### 2.4 Non-compliance

2.4.1 Non-compliance for Employees. An Employee's failure to fulfill the applicable responsibilities set forth in Section 3.1 may result in a notation of such failure in performance reviews, removal or reassignment of job responsibilities, corrective and/or disciplinary action up to and including termination, and criminal or civil prosecution under applicable state or federal law.

2.4.2 Non-compliance for Researchers. A Researcher's failure to fulfill the responsibilities set forth in Section 3.2 may result in modification of awards, disclosures to awarding entities, exclusion from the performance of research, and/or other appropriate action warranted under an associated research contract, law, regulation, and/or policy.

2.4.3 Non-compliance for Trustees. A Trustee's failure to fulfill the responsibilities set forth in Section 3.6 may result in reporting the Trustee to the Governor's Office, other responsible administrative authorities, and/or criminal or civil prosecution under applicable state or federal law.

2.4.4 Non-compliance for Volunteers. A Volunteer's failure to fulfill the responsibilities set forth in Section 3.7 may result in dismissing the individual from a USU board, committee, or other volunteer service, and/or criminal or civil prosecution under applicable state or federal law.

### 2.5 Training

Training materials associated with this Policy and all related laws and regulations will be developed, maintained, and delivered to all Benefited Employees, Researchers, and Trustees. Appropriate training to other persons required to submit disclosures of outside interests will be provided periodically and will be based on the principles represented in this policy, and the regulations cited above.

## 545.3 RESPONSIBILITIES

### 3.1 Employees

Each Employee has a responsibility to identify and disclose outside interests that concern as required by this Policy (See Section 2.2) and applicable procedures. Benefited Employees are responsible for participating in the annual conflict-of-interest disclosure process each fiscal year. When a conflict of interest is identified, the involved Employee must work with their assigned supervisor and department head or center director (if different from the direct supervisor) to eliminate the conflict of interest or

develop and comply with a conflict-of-interest management plan. Employees and Agents are responsible for completing all USU-assigned training associated with this Policy. Trustees shall be trained in accordance with Board of Trustee governing documents.

### 3.2 Researchers

Researchers, whether Employees, students, Research Interns, or Volunteers, are responsible for complying with any conflict-of-interest associated requirements as designated by the relevant sponsor and for complying with applicable policies and procedures relating to conflicts of interest. For example, Researchers funded by the Public Health Service must follow the specific guidelines found in the FCOI Regulation, as implemented in the 2011 Final Rule for grants and cooperative agreements. For additional instructions see 545-PR5, "PHS-related Disclosures, Conflicts of Interest and Reporting."

The Office of Research will develop, use, and maintain appropriate procedures to regularly seek disclosures, assess potential conflicts, and deploy appropriate management planning governing Researchers. Disclosures relating to Employees participating in research where the potential conflicts lie outside of the responsibilities of the Vice President for Research will be transferred to and processed by the procedures generally applicable to Employees. Additionally, the Vice President for Research may publish and require training of Researchers relating to conflicts of interest and management of conflicts within the conduct of research.

### 3.3 Supervisors

Supervisors are responsible for ensuring that each person that reports to them: (a) completes assigned training; (b) if the person is a Benefited Employee, participates in the annual disclosure process; and (c) complies with any applicable conflict-of-interest management plan. Supervisors are also responsible for ensuring that a conflict-of-interest management plan is developed and implemented for all identified conflicts of interest involving employees that report to the supervisor. Supervisors shall coordinate as appropriate with responsible department heads and/or center directors, who must approve conflict-of-interest management plans.

### 3.4 Institutional Review Board

The Institutional Review Board ("IRB") is charged with the protection of participants in human research at USU. Under 45 CFR 46, the IRB is charged with screening for and approving any management plans associated with identified conflicts of interest related to human research. The IRB has the authority to require changes to or disapprove a conflict-of-interest management plan that they find insufficient to protect participants in research under the IRB's oversight. For more information, see Policy 584, Protection of Human Participants in Research.

### 3.5 Deans and Vice Presidents

Each USU dean and vice president is responsible for ensuring that their college or department complies with this Policy and with specific procedures, practices, reports, etc. that are required of their unit pursuant to federal or state law or applicable organizational or contractual requirements. For example, the Vice President for Research and the Deans are responsible for ensuring compliance with any requirements relating to conflicts of interest made by federal sponsors of research (e.g., National Institutes of Health, National Science Foundation, Department of Energy, etc.); the Vice President and Director of Athletics is responsible for ensuring compliance with athletic conference and NCAA regulations relating to conflicts of interest; and the Vice President for Business and Finance is responsible for ensuring compliance with USU's Procurement Policy and related prohibitions and controls in state and federal laws.

### 3.6 Trustees

USU holds its Trustees responsible for identifying and disclosing their outside interests as required by this Policy (See Section 2.2), applicable procedures, and the Bylaws and organizational documents of the Board of Trustees. Trustees are required to participate in the annual conflict-of-interest disclosure

process each fiscal year. When a conflict of interest is identified, the involved Trustee must work with Board leadership and USU's administrators to either eliminate the conflict of interest (e.g., through recusal) or to develop and comply with a conflict-of-interest management plan. Trustees are responsible for completing all USU-provided training associated with this Policy.

### 3.7 Conflict of Interest Oversight Committee

A Conflict of Interest Oversight Committee (the "Committee"), chaired by the Chief Compliance Officer or another Committee member as designated by the President, will oversee the implementation of this Policy. The Committee will comprise the following (or their designees): (1) the Chief Compliance Officer (2) the Vice President for Research, (3) the Provost, (4) the Vice President for Finance and Administrative Services, (5) the Chief Information Officer, (6) the SEA President, (7) the Faculty Senate President, and (8) the Chair- Elect of the Department Head Executive Committee. A representative from the Office of General Counsel will act in an ex-officio non-voting capacity to advise the Committee. Additional Committee members may be added at the discretion and invitation of the President.

In overseeing the implementation of this Policy, the Committee will (a) ensure that a disclosure and management portal and system and associated training materials are developed and kept current; (b) review training materials prior to release to the USU community; (c) review and approve procedures developed to support and implement this Policy; (d) provide guidance and direction to supervisors, department heads, center directors, deans, and vice presidents seeking assistance in fulfilling their responsibilities or addressing noncompliance pursuant to this Policy; (e) serve as a reviewing and management body regarding any conflicts of interest assigned to the Committee by the President or referred from a supervisor or the Chief Compliance Officer; and (f) establish and support subcommittees as needed to address conflicts requiring expertise in specific areas. A Subcommittee on Research may be established and chaired by the Vice President for Research (or their designee) to address conflicts of interest relating to research.

## 545.4 REFERENCES

- Utah Code 67-16, Utah Public Officers' and Employee's Ethics Act
- Utah Code 53B-7-106, Personal use expenditures for officers and employees of institutes of higher education
- Utah Code 76-8-402, Misusing public money or public property
- 42 CFR 50 subpart F, "Promoting Objectivity in Research for which PHS Funding is Sought" ("FCOI Regulation"), as implemented in the 2011 [Final Rule](#) for grants and cooperative agreements
- Association for the Accreditation of Human Research Protection Programs, Standard I.6.A
- National Science Foundation, PAPPG, Chapter IX.A, Conflict of Interest Policies

## 545.5 RELATED USU POLICIES

- USU Policy 104: The University President and other Officers
- USU Policy 305: Discrimination Complaints
- USU Policy 377: Consulting Service
- USU Policy 387: Benefited Employment
- USU Policy 403: Academic Freedom and Professional Responsibility
- USU Policy 407: Academic Due Process: Sanctions and Hearing Procedures
- USU Policy 517: Investment Policy
- USU Policy 532: Scholarship Awarding
- USU Policy 539: Procurement Policy
- USU Policy 583: Research
- USU Policy 584: Protection of Human Participants in Research
- USU Policy 587: Intellectual Property

## 545.6 DEFINITIONS

- **Benefited Employee** means an Employee that is benefit-eligible as defined and set forth in USU Policy 387: Benefited Employment. An employee is considered benefit-eligible (*i.e.*, eligible for all USU benefits) if they are budgeted to work at least 20 hours a week and their position is budgeted for employee benefits. Affordable Care Act (ACA) eligible employees are not considered fully benefited employees as they are only eligible for medical coverage.
  - **Employee** means an employee of USU.
  - **Researcher** means an Employee, student, visiting scholar, or volunteer participating in a research project. Included in this definition are personnel who are defined in 42 CFR 50 as “Investigators” and whose responsibilities include the planning, conduct, and/or reporting of research. For Investigators who are funded by PHS, see Procedure 545-PR5, “PHS-related Disclosures, Conflicts of Interest and Reporting.”
  - **Research Intern** means a USU student or an approved non-USU student who voluntarily conducts research – or performs research-related tasks – for USU for the purpose of supporting the research efforts of USU and to gain experience and knowledge in the research field. See Policy
  - **Trustee** means a member of the Utah State University Board of Trustees.
  - **Volunteer** means any individual who donates approved and accepted services that are directly related to the business of the University or that support the activities of the University without the promise, expectation, or receipt of any compensation, future employment, or any other tangible benefit. See USU Policy 535.
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The information below is not included as part of the contents of the official Policy. It is provided only as a convenience for readers/users and may be changed at any time by persons authorized by the President, subject to review by the USU Policy Committee.

## RESOURCES

### Procedures

- 545-PR1. Disclosing Outside Interests
- 545-PR2. Outside Interest Assessment & Conflict of Interest Determinations
- 545-PR3. Prohibition of Certain Activities under Utah Law
- 545-PR4. Disclosing Foreign Interests
- 545-PR5. PHS-related Disclosures, Conflicts of Interest and Reporting

### Guidance

### Related Forms and Tools

- 545-F1. Notification of a Conflict of Interest

### Contacts

- Conflicts of Interest Officer  
Office of University Ethics and Compliance  
[usu.edu/compliance](http://usu.edu/compliance)  
(435) 797-8305

(For disclosures made for all covered individuals except researchers)

Compliance Officer

Research Integrity & Compliance

[Research.usu.edu/compliance/conflict-of-interest](https://research.usu.edu/compliance/conflict-of-interest)

(For disclosures made through the Kuali system for researchers)

## **POLICY HISTORY**

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