



Research Exception for the Virginia Conflict of Interest Act Prohibited Contracts

Policy Type: Board of Visitors

Responsible Office: Office of the Vice President for Research and Innovation

Initial Policy Approved: 07/16/1992

Current Revision Approved: 12/18/2015

Policy Statement and Purpose

The Virginia Commonwealth University Board of Visitors implements this policy to provide a framework within which the propriety and advisability of a proposed contract for research and development or intellectual property commercialization can be addressed. This policy applies to all employees of Virginia Commonwealth University.

VIRGINIA LAW

Under the Virginia State and Local Government Conflict of Interest Act a prohibited conflict of interest arises for an employee of VCU when an employee, or a member of his/her immediate family, has a personal interest in a firm or business which contracts with VCU. A personal interest generally is defined as ownership of more than 3 percent of the equity or liability of the business or receipt (or anticipation of receipt) of income or other commercial arrangement worth more than \$5,000 annually from the business, which accrues to the employee or a member of the employee's immediate family. Immediate family means (i) a spouse and (ii) any child who resides in the same household as the employee and who is a dependent of the employee. See Section 2.2-3101 of the Code of Virginia for complete definitions.

The Act exempts from its application personal interests in certain categories of contracts. In particular and for purposes of this policy, interests in research and development and intellectual property commercialization contracts are exempted provided the disclosure and approval requirements of the law are followed. Contracts covered by these guidelines include research agreements approved through the Office of Research and Innovation and intellectual property licensing agreements with the University or an affiliated corporation.

Noncompliance with this policy may result in disciplinary action up to and including termination. VCU supports an environment free from retaliation. Retaliation against any employee who brings forth a good faith concern, asks a clarifying question, or participates in an investigation is prohibited.

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Who Should Know This Policy

Employees of Virginia Commonwealth University are responsible for knowing this policy and familiarizing themselves with its contents and provisions.

Definitions

There are no definitions

Contacts

The Office of the Vice President for Research and Innovation officially interprets this policy. The Office of the Vice President for Research and Innovation is responsible for obtaining approval for any revisions as required by the policy *Creating and Maintaining Policies and Procedures* through the appropriate governance structures. Please direct policy questions to the Office of the Vice President for Research.

Procedures

Procedures are mandatory actions to establish required actions and processes to comply with a policy, support compliance with applicable laws and regulations, and mitigate risk.

An employee's personal interest in such a contract between VCU and a business in which the employee or a member of his/her immediate family has a personal interest may be permissible if (1) the personal interest has been disclosed to, and the contract for research and development has been approved in writing by the President of the University, to whom the Board of Visitors specifically delegates its authority under the State and Local Government Conflict of Interests Act, upon the recommendation of the Vice President for Research and Innovation before the contract is entered into between the University and the business in which the employee has a personal interest; (2) a disclosure statement is filed with the Vice President for Research and the Secretary of the Commonwealth of Virginia in the form required by the Virginia State and Local Government Conflict of Interests Act; and (3) the employee thereafter files the aforementioned disclosure statement semi-annually on or before December 15^h and June 15 of each year for the duration of the contract.

DISCLOSURE AND APPROVAL PROCESS

Prior to the signing of a proposed contract by the appropriate VCU official, an employee shall fully disclose the specific nature of the employee's personal interest in a sponsor's business. The disclosure shall be entered into the University's reporting system and shall describe the employee's personal interest and the benefits to be gained by the University from the proposed research and development

contract. All employees with a personal interest in the proposed contract must disclose that personal interest. It is the responsibility of the principal investigator to inform all employees who will be involved in the contract of the disclosure requirements.

If the department chairperson is satisfied that the proposed contract will contribute to or enhance the University's research and educational programs and will not affect adversely the performance of the employee, approval shall be acknowledged by endorsing the internal approval coversheet. Should the Vice President for Research determine that the proposed research and development contract in which an employee may have a personal interest does not affect adversely the interests of the University, the Vice President for Research will recommend approval to the President.

Institutional approval of an original contract shall not be deemed approval of subsequent changes during the life of the contract unless such changes are also submitted for approval.

Should the Vice President for Research and Innovation determine that the contract in which an employee has a personal interest has not contributed to the University's scholarly and educational missions, or has affected adversely either the performance of the employee or the interests of the University, he/she may initiate corrective action.

If the exception to the prohibited contract is approved, the employee will be informed by the University's Office of Integrity and Compliance of the employee's obligation to immediately submit the Statement of Economic Interests, the disclosure statement required by the State and Local Government Conflict of Interests Act. The Statement of Economic Interests must be completed by the affected employee(s) semi-annually thereafter on or before January 15 and June 15 for the duration of the contract. It remains the responsibility of the individual employee to make the written disclosure as required by law.

Any required reports will be prepared by the Office of Research.

APPEAL PROCESS

If approval is denied, the employee may appeal to the Conflict of Interest Review Committee (COIRC), a standing committee of individuals appointed annually by the Vice President for Research in consultation with their Department chairs.

The COIRC will hear the appeal from the employee and the reasons for denial by the administrator. It may then call other witnesses and seek other information as deemed desirable. It shall make a recommendation to the President. The President will render the final decision.

IMPERMISSIBLE CONFLICT OF INTEREST

The law continues to define as an impermissible personal interest those situations in which the University currently has a signed research and development contract with a business and then an employee acquires a personal interest in the business. An employee contemplating entering into such an arrangement should seek advice from his/her attorney.

Forms

Personal interests are disclosed in the Statement of Economic Interests form provided by the University.

Related Documents

Conflict of Interests in Research Policy -

http://www.policy.vcu.edu/sites/default/files/Conflict%20of%20Interests%20in%20Research_0.pdf

Revision History

This policy supersedes the following archived policies:

July 16, 1992	<i>Conflict of Interest Act Prohibited Contracts Exception</i>
May 21, 2004	<i>Conflict of Interest Act Prohibited Contracts Exception</i>
December 12, 2014	<i>Conflict of Interest Act Prohibited Contracts Exception</i> , [Pursuant to April 23, 2014 legislative approval of amendments to the Procedures for Compliance with the Virginia State and Local Government Conflict of Interest Act Prohibited Contracts Exception. Approved by the State Council of Higher Education for Virginia (SCHEV) on January 14, 2014, re-approved on December 22, 2015.]

FAQs

I am interested in establishing a start-up company in order to apply for federal funding to further develop my intellectual property. How should I proceed?

If your intellectual property (IP) is the result of your work at VCU, it should immediately be disclosed to VCU Innovation Gateway. Plans to establish a start-up company should be discussed with Innovation Gateway (ott@vcu.edu) and the Conflict of Interests Program (airs@vcu.edu). The scenario will pose a conflict of interests and will require a management plan. Funding to your start-up company to be subcontracted to VCU (via federal Small Business Innovation Research or Small Business Technology Transfer grants, for example) will pose a prohibited contract if you are the PI or otherwise involved in the research. As described by this policy, an exception to the prohibition is permitted pending review and recommendation by the Conflict of Interest Committee and approval by the VCU President.