Clemson University
Conflict of Interest Policy

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Clemson University Conflict of Interest Policy

I. INTRODUCTION & PERSONS COVERED

Clemson University (Clemson) encourages faculty, staff, and students to engage in appropriate outside relationships, participate in sponsored research, to consult widely, and to engage in other activities that may benefit not only the participants, but also the University itself, and the larger public. However, members of the University community are expected to avoid conflicts of interest or commitment that have the potential to directly and significantly affect the University’s interests, compromise objectivity in carrying out University responsibilities, or otherwise compromise performance of University responsibilities, unless such conflicts are disclosed, reviewed, and managed in accordance with this Policy. This Policy on Conflict of Interest (hereinafter, the “Policy”) describes the University’s approach and process for identifying, reviewing, and managing such relationships to help assure the integrity of University academic and administrative endeavors.

A member of the University community (considered as covered individuals for this Policy) – Officer, Administrator, Faculty, Staff, Student or Trainee – may be deemed to have a conflict of interest when he or she or any of that person's family possesses a personal or financial interest related to an activity that involves his or her University responsibilities. This includes all full-time, part-time, temporary, and contract employees and others acting on Clemson’s behalf in the performance of the teaching, research, public service, administration and business operations of the University. Affiliates (entities which derive their not-for-profit status from Clemson such as the Clemson University Foundation, and the Clemson University Research Foundation) shall as a condition of continued business with Clemson adopt a policy substantially similar to this Policy, adapted to accommodate those personnel who are not public employees. (The Conflict of Interest Policy for the Trustees of Clemson University can be found at: http://www.clemson.edu/administration/bot/manual/chapter8.html)

Through this Policy the University seeks to minimize the most obvious and avoidable conflicts of interest that have potential for serious negative effects on performance of its missions. The requirement that an individual’s potential conflicts of interest be disclosed and evaluated by others is not a reflection or assessment of the integrity of the individual. As members of a scientific and intellectual community, we recognize that objectivity about one’s own situation and credibility with external observers requires an evaluation external to oneself. Moreover, the fact that an individual may be determined to have a conflict does not imply that the conflict is unethical or impermissible; it means simply that the relation of the conflict to the individual’s institutional responsibilities must be carefully examined and in some cases managed, because conflicts – real, potential or perceived - may impair performance of the missions of teaching, research, and public service, as well as jeopardize public trust and support.

In pursuit of its own mission Clemson University has formulated the following policy to identify and address actual conflicts of interest and conflicts of commitment. The fundamental
premise of this policy is that each member of the University community has an obligation to act in the best interest of the University and its mission, and must not let outside activities or significant outside financial interests interfere with those obligations. This policy is intended to increase the awareness of faculty, staff and students to the potential for conflicts of interest, and to establish procedures whereby such conflicts may be avoided or properly managed.

II. Purpose and Goals

Public Trust: As a steward of public funds, Clemson has a responsibility to ensure that all its activities reflect its primary goals of education, scholarly inquiry, public service, and economic development. The public has endowed Clemson with certain privileges and entrusted it with resources in the expectation that no single party will derive sole benefit or be unjustly enriched from the public's investment in Clemson. The public should be confident that Clemson is a place of rigorous and open inquiry, unencumbered by potential conflicts of interest that could reasonably be considered to affect the sound judgment of Clemson employees.

Conflicts of Interest will Occur: Clemson, as a contemporary, public research university, has a responsibility to actively participate and promote education, research, and economic development, even if conflicts of interest are more likely and many times unavoidable. Conflicts of interest, therefore, may arise from ordinary and appropriate activities as a part of assigned employment duties so the existence of a conflict should not imply wrongdoing. When conflicts of interest do arise, however, they must be recognized and disclosed, then eliminated or appropriately managed. The Board of Trustees for Clemson has a duty to govern in a manner such that conflicts are appropriately reviewed and acted on to maintain public confidence in the integrity of our institution.

Goal: This policy provides a framework for recognizing and managing employee conflicts of interest, and should minimize even the appearance of conflicts of interest. The primary goal of this policy is to prevent an employee's personal interest and activities from adversely influencing Clemson operations.

Enterprise Policy: Particular units and activities of Clemson may have specific conflict of interest policies or guidelines. Those specific policies may in certain cases be more restrictive than this enterprise wide policy. It is intended, however, that this policy will apply to the entire Clemson enterprise, providing a framework for those specific additional policies and guidelines to operate under, such that those specific policies and guidelines will not supersede this policy except as approved by the Administrative Council.

III. Principles

This policy reflects the following guiding principles:

Objectivity and integrity in decision-making: Clemson University’s employees are obligated to make decisions that are in the best interest of the institution, free from any conflict that might place personal interests ahead of the public interest. In particular, Clemson University employees are obligated to make appropriate use of University funds by conducting financial
and contractual transactions in the best interest of the institution, free from any conflict that might place personal financial interests ahead of the public interest.

**Fulfillment of obligations to students:** The student-faculty relationship lies at the heart of the academic enterprise. Insulating that relationship from inappropriate pressures is vital to the educational welfare of individual students and to the quality of teaching that the institution provides.

**Transparency in relationships with external communities:** Activities with outside enterprises and other economic activities of the University itself should be conducted so as to maintain public confidence in the University as an institution committed to the pursuit of truth and advancement of knowledge. Universities depend on the goodwill and steady support of their alumni, community and government leaders, and many members of the public, who rely on the institutions to uphold standards of academic integrity.

**Commitment to oversight and management:** The University’s leadership and administration must be aware of and deal appropriately with potential conflict of interest situations, both real and perceived, which may arise in connection with outside professional activities. All Clemson University employees are obligated to disclose any interests that may be determined by the Conflict of Interest Committee (COIC) as potential conflicts and the University is then responsible for providing a conflict of interest management process that protects the interests of employees, the University and the public.

**IV. Policy Implementation**

To ensure compliance with this policy, all employees will disclose as the situation arises and at least on an annual basis, professional and relevant personal activities and relationships that create a conflict of interest or that have the appearance of creating a conflict of interest, according to the procedure specified in Appendix B. For all positive disclosures, a plan (attached hereto in Appendix C) to manage, mitigate or eliminate the conflict will be developed by the employee with his/her supervisor and approved by the Conflict of Interest Committee, also as specified in Appendix B.

**V. Sanctions for violation**

1. Employees who violate this policy including but not limited to failing to disclose any financial interests or failing to comply with a Management Plan shall be reported to the Responsible Vice President.

2. The Responsible Vice President shall determine what, if any, disciplinary action may be necessary.

3. Penalties for failure to comply with the requirements of this policy shall be the same as for any other violation of University policy and may range from a verbal reprimand to dismissal based upon the facts and circumstances of each case.
VI. Priority of Law and Related Statutes, Rules, Policy, and Guidance

Compliance with the Law: Nothing in this policy shall be construed to permit, even with disclosure, any activity that is prohibited by law.

SC Ethics Act:

(a) General: This policy references the S.C. Ethics Act, S.C. Code § 8-13-10 et seq. (http://www.scstatehouse.gov/code/t08c013.php) and is implemented in addition to all requirements of the S.C. Ethics Act and does not supersede it.

(b) Conflicts of Interest in Procurement: The S.C. Ethics Act makes it unlawful for public officials, public members, and public employees to use their position to obtain an economic interest or to have a financial interest in most any contract or purchase connected with Clemson, unless certain exceptions apply. (See Clemson University Guidance “Conflicts of Interest in Procurement” http://www.clemson.edu/finance/procurement/policies/psv_policies/psv12pol.html.)

(c) Nepotism: The S.C. Ethics Act contains certain prohibitions against Nepotism and restrictions on Dual Career Employment (see Clemson University Guidance “Conflicts of Interest in Human Resources” SC Code Title 8, Chapters 5 and 13--http://www.scstatehouse.gov/code/title8.php.)

NCAA Rules: As a member of the National Collegiate Athletic Association (“NCAA”), Clemson and its employees involved in athletic related activities must be in compliance with NCAA bylaws and rules related to sponsorships and non-University compensation.

Public Health Service (PHS)/NIH Funded Research: Federally funded research (including PHS/NIH funding) conducted by Clemson employees who contemplate funding from or are funded by the Federal Agency is subject to the federal policy governing that agency’s funding and is also subject to the Clemson University Financial Conflict of Interest (FCOI) in Research Policy.(http://media.clemson.edu/research/sponsored-programs/coi/phs-coi-policy.pdf) Any conflict of interest subject to the FCOI Policy shall be reviewed and managed pursuant to the requirements of that policy.

Conflicts of Interest in Human Subjects Research: Conflicts of interest related to research involving human subjects pose special concerns. The University and its researchers have ethical obligations to honor the rights and protect the safety of persons who participate in research conducted at the University. Financial interests held by those conducting the research may compromise the fulfillment of those ethical obligations and the well-being of the research subjects, as well as the integrity of the related research. Accordingly, any person with an unmanaged COI is prohibited from participating in the conduct of such research. In addition, research involving human subjects where there is a financial conflict of interest may only go forward if the design and circumstances of the human subjects research are such that they serve to protect both the human subjects and the objectivity of the data obtained.
Other Management Actions: The process for disclosing and managing conflicts of interest as described in this Policy are the minimum steps which must be taken by an employee. It is possible that a particular situation or activity may call for specific steps beyond those outlined here for proper disclosure and/or management of a conflict.

VII. Implementation of Policy Responsibility

The Executive Vice President for Academic Affairs and Provost is responsible for overseeing the implementation of this Policy. Day-to-day responsibility for such implementation is delegated through the Vice President for Research to the Conflict of Interest Office.

The Conflict of Interest Office will coordinate with the Conflict of Interest Committee (COIC) to manage policy issues and maintain relevant records.
Appendix A

DEFINITIONS

“Conflict of interest” occurs when an employee or immediate family member has a personal interest in or receives a personal financial, economic, professional or personal gain or advantage of any kind from the employee's position in a manner that may inappropriately influence the employee's judgment, compromise the employee's ability to carry out Clemson institutional responsibilities (the responsibilities of an employee to perform Clemson activities as defined by management or contract) or be a detriment to Clemson’s integrity.

It is important to note that a conflict of interest is not to be confused with a violation of this policy. Identification of a conflict of interest is the initial step in a process of the employee and the University determining whether or not the conflict is inconsequential, may be managed, or may require the employee to forego certain activities. A conflict of interest exists when an independent observer might reasonably question whether the individual's professional actions or decisions are determined by considerations of personal gain, financial or otherwise. A conflict of interest depends on the situation, and not on the character or actions of the individual.

“Conflict of commitment” is a term that may also apply to outside professional and business activities that result in a conflict of interest subject to this policy. Generally, employees are prohibited from engaging in employment for pay during the same time period that the individual is being paid for services as a public employee. Approvals and Management Plans provided for under this policy do not relieve the employee of compliance with the principle of conflict of commitment as defined in the Faculty Manual as “Private Outside Employment” (http://www.clemson.edu/faculty-staff/faculty-senate/manuals.html).

“Apparent conflict of interest” arises when an employee is involved in an activity and the circumstances are such that a reasonable person with knowledge of the relevant facts would question the employee’s impartiality.

“Financial Conflict of Interest (FCOI)” means a financial interest that could directly and significantly affect the design, conduct or reporting of research. Significant Financial Interests (SFI) amounts are determined by sponsors and should be reviewed individually. For example, PHS and NSF amounts may differ.

“Disclosure” is the full recording or specification of the employee’s or the employee’s immediate family’s relationship with an external organization or involvement in external activities. All University employees are required to complete the disclosure form annually or within 30 days of any change. This form is required annually even in the event of nothing to disclose.

“Immediate family” includes the employee's parents, spouse, siblings, children, stepchildren, and grandchildren or other individual who resides in the same household.
“Management plan” means a written document that outlines specific actions which will be taken or conditions that will be conformed to in order to minimize or eliminate the risk of the perceived or real conflict of interest.

“Institutional Responsibilities” are defined broadly and include but are not limited to teaching, advising, research, scholarly activities, outreach, administrative and institutional committee service, and service to professional associations or on panels such as peer, institutional, or accreditation review boards.

“University” or “Clemson” means Clemson University.

“Personal financial or economic benefit” is defined as anything of monetary value, including gifts valued at more than $50.00, salary, commissions, fees, honoraria, travel and lodging expenses, equity interests (including any ownership stake in a startup company), interests in real or personal property, dividends, royalty, rent, capital gains, intellectual property rights, loans, and forgiveness of debt. "Personal financial benefit" does not include:

- compensation or payments received from Clemson;
- payments for participation in seminars, lectures or other educational activities sponsored by and service on advisory or review panels for a federal, state, or local government agency, an institution of higher education as defined at 20 U.S.C 1001(a), an academic teaching hospital, a medical center, a professional association or a research institute that is affiliated with an institution of higher education, and reasonable expenses for the same activities as long as acting with the approval of the employee’s supervisor;
- food and beverages provided while attending education meetings or conferences, social receptions and events, or business meeting;
- any financial interest arising solely by means of investment in a mutual, pension, or other institutional investment fund over the management and investments of which the employee or an associated immediate family member does not exercise control; and
- investments in any non-publicly traded or publicly traded entities as long as the value of the employee’s remuneration in the past 12 months from such investments was less than $5,000.

“Responsible Vice President” shall mean the University Vice President for the conflicted employee’s unit; for athletics, this shall be the Athletic Director. In the event a Vice President or the Athletic Director is the conflicted employee, the President, or his designee, shall serve as the approving officer. In the event the President is the conflicted employee, the Chair of the Board of Trustees shall serve as the approving officer.
“Conflict of Interest Committee (“COIC”)” shall mean the committee that reviews Conflict of Interest Management Plans submitted by Departments. The COIC shall also serve as the appeals body for conflict of interest situations that are not able to be resolved at the Departmental or College level. The COIC shall establish its processes and procedures of operation consistent with this policy.

The committee shall comprise the following ex-officio voting members:

1. Chair of the COIC appointed by the President
2. Designee of the Executive Vice President for Academic Affairs & Provost
3. Designee of the Vice President for Finance and Operations
4. Designee of the Vice President for Research
5. Designee of the Vice President for Economic Development
6. Designee of the Vice President for PSA
7. Designee of the Vice President for Student Affairs
8. Designee of the Vice President for Advancement
9. Designee of the President of the Faculty Senate
10. Designee of the President of the Staff Senate
11. Designee of the Athletic Director

The committee shall also have the following non-voting, ex-officio members:

1. Office of General Counsel representative
2. Human Resources representative
Appendix B

Disclosure and Review/Management Procedures

I. Disclosure Process

When an employee has or thinks s/he may have a conflict of interest (as defined herein), s/he follows the following steps:

1. The employee discloses the possible conflict using the electronic disclosure system which is forwarded to the COI Office.

2. The COI Office will complete an administrative review and, if necessary, forward to the COIC for further review. If the COIC determines a positive COI, then the employee must submit a COI Management Plan.

3. The supervisor works with the employee to create a draft Conflict of Interest Management Plan (in the format as described in Appendix C) with guidance from the COI Office. The draft plan is then forwarded to the appropriate Dean, Division Head or their designee for review and approval.

4. Once the College or Division has reviewed and approved the draft Conflict Of Interest Management Plan, it is then forwarded to the COIC for review and approval. Supervisors are encouraged to provide comments to the COIC to guide their review of the Management Plan.

5. The COIC shall conduct a timely review of all Management Plans that have been submitted at least 14 working days prior to the next scheduled meeting. After review of a Management Plan, the COIC issues an approval or disapproval of the Management Plan to the Responsible Vice President. In the event of disapproval, the COIC shall give the reasons for the disapproval and corrective actions, if any, which could change the decision to an approval. In the event that there is no reasonable way to manage a conflict of interest, then the employee may be prohibited from participating in related Clemson affairs until such a time as the conflict is eliminated.

6. The Responsible Vice President shall review the COIC response, seek additional information or clarification if desired, and implement the proposed Management Plan.

7. The decision of the COIC shall be final and cannot be appealed by the employee to a higher level within the university.

8. When a Management Plan has been implemented it shall be reviewed at least annually by the Responsible Vice President and updated as needed. Any updates to the Management Plan should be sent to the COI Office for review and records.
maintenance. The COIC will be notified of any changes and may request further review.

9. Employees shall avoid any involvement with related University activities and decisions until such time as the Conflict of Interest Management Plan has been reviewed and approved.

10. Disclosures shall be kept confidential to the extent permitted by law. However, disclosures can be shared with law enforcement if possible criminal conduct is indicated.

11. Some external sponsors, such as PHS, require the University to provide initial and ongoing reports on an Investigator’s FCOI to the sponsor. The University will provide sponsors with FCOI information as required by individual sponsor policy. In addition, external sponsors, such as PHS, obligate the University to make available to the public, upon request, information regarding FCOIs for senior and key personnel. The reporting and ongoing management of FCOIs to external sponsors and the reporting to the public of FCOIs for senior and key personnel will be the responsibility of the COI Office.

12. Supervisors who become aware of undisclosed conflicts of interest subject to this policy should instruct the employee to immediately disclose. Any failure to disclose in a timely fashion should be reported to the COIC.

13. Employees who become aware of any undocumented conflict of interest subject to this policy, not just their own, should report it according to the Clemson University Whistleblower Policy. The policy can be found at http://media.clemson.edu/research/sponsored-programs/whistleblower.pdf.

II. Annual Disclosure

1. On an annual basis, all employees shall complete the electronic Conflict of Interest Disclosure Form, identifying any real or potential conflicts of interest, or providing an attestation that none exist. Disclosures should be updated, modified, or supplemented as needed, between disclosure periods within 30 days of changes.

2. Annual disclosures are submitted by employees electronically to the COI Office for review and maintenance of the records. COI Office forwards notification of all positive disclosures to the COIC for their action and records.
Appendix C

CONFLICT OF INTEREST MANAGEMENT PLAN (SAMPLE)

Instructions

The Conflict of Interest (COI) Management Plan is an instrument through which Clemson University seeks to eliminate, reduce or otherwise manage conflicts of interest or conflicts of commitment. This template is provided to expedite the process of formulating and approving COI Management Plans. Section I should be filled out for each plan. Remaining sections should be filled out ONLY IF THEY APPLY TO YOUR PARTICULAR SITUATION (WHICH YOU SHOULD COVER IN YOUR COI DISCLOSURE FORM.) Otherwise, insert an "N/A" in place of the text for each of the remaining sections. After developing the Management Plan together with your department head, please complete the Certification, attach it as a cover sheet for the COI Management Plan, obtain the approval of the cognizant dean or division head, and submit the Plan to the COI Office at 305C Brackett Hall, Clemson University, Clemson, SC 29634.

I. General Conflict of Interest Involvement

Please provide a general description of the outside interest of the employee or employee's family member. If it involves a company, describe the nature of the business and its relationship to the duties of the employee.

If a technology is involved, include a discussion of the intellectual property on which the company or consulting is based, and describe the disclosure of the technology to Clemson University Research Foundation (CURF) and the licensing arrangements between CURF and the company if it is a university-owned technology.

II. Outside Professional and Commercial Disclosures

Choose one of the following options or develop a management strategy in the "Other" option.

OPTION 1 - ________________________ will limit consulting or outside employment in accordance with the Faculty Manual, Part X, Section D.

OPTION 2 - ________________________ will take an unpaid leave of absence to provide the time needed to fulfill his/her duties at the outside interest. This arrangement will be reviewed every ____ months by the department head and dean or division head.

OPTION 3 - (If the conflict is perceived to be causing a delay or inhibition of scholarly publications.) ________________________ will coordinate with his/her department chair and CURF to expeditiously protect intellectual property and allow the timely publication of scholarly research, whether his/hers or students’ in the research group.

OPTION 4 - Other
III. Significant Financial Interest in Commercial Firm

Describe a plan under which the employee will either:

1. Divest himself/herself of fiduciary responsibilities in the company, or
2. Abstain from any university work related to his/her commercial interest, or
3. Have a non-conflicted party manage the financial and day-to-day affairs of the university research.

IV. Textbooks and Course Material

Describe a plan that will protect the interests of students in the event that faculty or staff who determines which course materials including textbooks are required for a Clemson course may personally benefit from course materials including textbook sales in excess of $500 annually. For example, oversight of text selection by a curriculum committee, return of royalty proceeds to students, or direction of proceeds to a fund that is not in your control (such as a scholarship fund, etc.).

V. Use of University Facilities or Personnel in the Performance of Outside Consulting

OPTION 1 - At this time there are no plans to involve other University personnel (students, postdoctoral employees, faculty or staff) in this project. However, in order to avoid any potential conflict, the following process will be used:

Describe in general how the research will be accomplished using outside facilities and personnel, and the procedure that will be used to set up and monitor use of University resources if changes need to be made during the project requiring the use of University facilities or personnel.

OPTION 2 - University facilities will be used on this project. A copy of the appropriate use agreement is attached to this Plan, specifying a) the facilities or other assets of the University to be used in the project, b) arrangements for fair market remuneration for specified uses and c) appointing an approved project manager or committee within the University to have oversight of the facility usage.

OPTION 3 - Other

VI. Interest in an Organization Funding University Research

Describe a plan under which the employee will either:

1. Divest himself/herself of responsibilities to the company for acceptance of University Research results, or
2. Abstain from design, conduct or reporting of university research work related to his/her consulting responsibilities, or
3. Have a non-conflicted party or committee manage the financial and day-to-day affairs of the university research.
VII. Gifts

OPTION 1 - will not accept gifts valued cumulatively at over $50 per year from a company in which he/she has a significant financial interest, for whom he/she performs consulting, or whose business is directly related to his/her research interests.

OPTION 2 - The acceptance of gifts shall be supervised by the cognizant dean, division head or department head, and shall be managed (if in the form of cash) in development accounts at the discretion of that dean, division head or department head.

OPTION 3 - Other

Note: No remuneration should be received as a gift if it would establish a quid pro quo relationship between the donor and the University or the recipient. Such relationships should always be memorialized in a research contract.

VIII. Research Supervision

The following University personnel will be employed on this project:

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The listed employees shall receive instructions from their department heads apprising them of the faculty member's relationship to the company, and of the student or staff member's right to inform the department head if he/she feels the situation is adversely affecting his/her academic progress or employment status.

Note: In no case should a Clemson student be supervised at both the company and the University by an individual with a COI.

Describe a plan that will provide adequate separation between outside work assignments and University responsibilities for University employees and students.

IX. PI Responsibilities for Non-Clemson Project Staff

Describe a plan under which non-faculty staff or Non-Clemson employees that design, conduct or report research work on a University project will comply with Clemson's Conflict of Interest Policy. Attach a secondary plan if necessary.