

Policy 700.2 – Conflict of Interest & Financial Disclosure

Date Adopted: 12/10/07

Issuing Office: Administration & Finance

Date Revised:

Approved By:

References: BOR 407, 770; MCA 2-2-101, 2-2-202, 2-2-302, 304

I. POLICY

This policy is adopted pursuant to Board of Regents Policy 770 Conflict of Interest, and applies to the full-time administration, faculty, and professional staff at the University of Montana Western. In addition to this policy, the conduct of all public employees is governed by Montana law, Standard of Conduct- Code of Ethics, Title 2, Chapter 2, Part 1, MCA. The University of Montana Western and its employees are committed to conducting all work-related activities in accordance with the highest integrity standards and in full compliance with all ethical and conflict of interest legal requirements applicable to the University and its employees.

II. PURPOSE

Work-related activities in pursuit of Montana Western’s mission often involve sustained interaction and activities of employees with business, government, and community groups, as well as not-for-profit groups, professional societies, other academic institutions, and other individuals and organizations. These interactions create the potential for conflicts of interest to arise.

A conflict of interest may exist whenever an employee’s work responsibilities, actions, or decisions may be influenced by considerations of personal or financial gain through activities, contracts, or engagements undertaken by the employee with non-university entities. Such conflicts, real or apparent, can undermine public and professional confidence in the system, diminish its ability to accomplish its mission, and violate state or federal law. This policy sets forth principles for identifying such potential conflicts and procedures for reviewing and addressing potential conflicts that might occur.

The existence of a conflict of interest does not necessarily mean that the activity at issue violates law or must be avoided or discontinued. Often, conflicts of interest can be dealt with effectively through disclosure and other steps to resolve or manage the conflict. Thus, an integral part of this policy is the disclosure and management system detailed below.

This policy is intended to enable employees to recognize potential conflicting interests and, thus, to protect themselves and the University from such conflicting interests through disclosure, evaluation, and, if required, management or elimination of conflicts of interest. This policy and accompanying procedures are intended to maintain the professional autonomy of employees inherent in research, scholarship, teaching, and all other Montana Western activities. Compliance with this policy by all Montana Western employees is required.

The disclosure mechanism to be used by UMW administrative, faculty, and professional employees is a one-page form entitled “Conflict of Interest Disclosure Statement” (Appendix A) The form must be completed and submitted no later than September 30th of each year.

III. PROCEDURES

A. Definitions

1. Conflict of Interest occurs when:

- a. An employee has a personal interest that is inconsistent or incompatible with the employee’s obligation to the University to exercise the employee’s best judgment in pursuit of the interest of Montana Western and its students.
- b. A non-University activity unreasonably encroaches on the time an employee should devote to the affairs of the University.

- c. An employee’s non-University activities unreasonably impinge on or compromise the loyalty or commitment to the employee’s University duties and responsibilities.

In determining whether a conflict of interest exists, an important consideration is whether an independent observer might reasonably question whether the employee’s professional actions or decisions are influenced by considerations of personal gain, financial or otherwise.

- 2. **Significant Financial or Other Interest** is anything of significant monetary value, including but not limited to: salary or other payments for services (e.g., consulting fees or honoraria), equity interests (e.g., stocks, stock options, or other ownership interests), and intellectual property rights (e.g., patents, copyrights, or royalties from such rights).

“Significant financial or other interest” also means the holding of a position as an officer, director, agent, or employee of a business entity.

“Significant financial or other interest” includes such interests held by the employee and by the employee’s immediate family members.

The term **does not** include:

- a. Salary or other remuneration from Montana Western, including any payments by Montana Western to the employee resulting from royalty or licensee fee sharing.
- b. Any ownership interest in an associated entity approved by the Board of Regents under BOR Policy 407.
- c. Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities.
- d. Income from service on advisory committees or review panels for public or nonprofit entities.
- e. An equity interest that, when aggregated for the faculty member and the faculty member’s immediate family, *meets both* of the following tests:
 - 1) Equity interest is \$10,000 or less in value as determined through reference to public prices or other reasonable measures of fair market value, and
 - 2) Represents a five percent or less ownership interest in any single entity.
- f. Annual salary, royalties, or other payments that, when aggregated for the employee and the employee’s immediate family, amount to \$10,000 or less over 12 months.
- g. A financial interest arising solely by reason of investment in such business by a mutual, pension, or other institutional investment fund over which the faculty member does not exercise control.
- h. Montana Western-sponsored research or activities.

- 3. **Sponsored Research or Activities** includes scholarship or creative activities such as research, training, and instructional projects involving funds, materials, or other compensation from outside sources under agreements where any of the following applies:
 - a. The agreement binds Montana Western or an affiliated entity to a line of scholarly or scientific inquiry specified to a substantial level of detail.
 - b. A line-item budget is involved.
 - c. Financial reports are required.
 - d. The award is subject to external audit.
 - e. Unexpended funds must be returned to the sponsor at the conclusion of the project.
 - f. The agreement provides for the disposition of either tangible or intangible properties that may result from the activity.

For purposes of this policy, research also includes a systematic investigation designed to develop or contribute to general knowledge relating broadly to public health, including behavioral and social sciences research. The term encompasses basic and applied research, as well as product development.

In sponsored activities, a conflict of interest occurs when a faculty serving as a principal investigator has financial interests that could affect, or have directly and significantly affected, the design, conduct, or reporting of a sponsored project.

B. Disclosures

The key mechanism for implementation of this policy is disclosure. Disclosure allows the University and the employee to evaluate personal interests to determine if they present potential conflicts of interest and to take appropriate action based on the evaluation. All full-time University administrators, professional staff, and faculty must complete and submit a Conflict of Interest Disclosure Statement form annually (Appendix A). All employees, including those exempted from the annual disclosure requirement, are required to comply with this Conflict of Interest policy and to make disclosures of any potential conflicts of interest whenever they occur (using the Conflict of Interest Disclosure Statement form, Appendix A.)

1. Circumstances Requiring Disclosure

All employees must disclose the following whenever they occur:

- a. The acquisition by the employee, or a member of his/her immediate family, of a significant financial interest, including employment, in an entity engaged in commercial or research activities directly related to the employee's University responsibilities.
- b. Serving as an executive officer or as a member of the board of directors of an entity engaged in commercial or research activities directly related to the employee's University responsibilities.
- c. An immediate family member serving as an executive officer or as a member on the board of directors of an entity engaged in commercial or research activities directly related to the employee's University responsibilities.
- d. The planned direct participation in a University decision that would involve a direct benefit or detriment to:
 - 1) A family member.
 - 2) A person in whom or with whom the employee has a financial interest.
 - 3) A person with whom the employee has a consensual romantic relationship.
- e. Any financial interest of the employee or an immediate family member in an entity involved in a University purchase or sale whenever the employee is in a position to recommend or approve the purchase or sale. Such interests must be disclosed to the UMW Director of Business Services.
NOTE: This disclosure requirement does not include textbook adoptions when the employee is clearly identified as an author, contributor, or editor of the textbook under consideration. However, faculty members should not receive a profit as a result of recommending a specific vendor for the purchase of texts or course materials by their students, whether on-line or from other sources.
- f. Participation as an employee, officer, board member, or owner in an entity which has (or wishes to have) rights to intellectual property for which you were an inventor or creator in your work for Montana Western as provided in Board of Regents Policy 407.
- g. The acquisition of any personal or financial interest, including employment, that creates a potential conflict of interest.

2. Annual Disclosure

Annually, all administrative, faculty, and professional employees must complete and submit a Conflict of Interest Disclosure Statement (Appendix A) as follows:

- a. Disclosure Forms shall be completed and filed by September 30 of each year.
- b. The employee's signature on the Disclosure form certifies that the employee has read and understands this policy and that either:
 - 1) the employee does not have any interests that require disclosure, or
 - 2) the employee has appropriately disclosed any interests that create a potential conflict of interest.
- c. All Disclosures shall be submitted to the Associate Director of Human Resources, with copies to the Chancellor or Vice Chancellor overseeing the employee's supervisory line.
- d. Any of the above disclosures may be accompanied, at the employee's option, by a proposed conflict management plan; a plan template is available. University of Montana's Office of Legal Counsel (243-4742) is available to answer questions or provide help with a plan.

3. Disclosure Review and Disposition

- a. **Initial Review** of each disclosure form will be done by the Associate Director of Human Resources. The Associate Director will determine, in consultation with the responsible Executive-level supervisor or the Office of Legal Counsel, whether a conflict of interest may exist.
- b. **Waiver of Conflict** may be given in writing by the Associate Director of Human Resources. If a conflict is determined to exist, the Associate Director of Human Resources, in consultation with the responsible Executive-level supervisor and/or the Office of Legal Counsel, may waive the conflict and the need for a conflict management plan if they make the following written determination:
 - 1) That the conflict of interest is so remote that there is not significant probability for bias or undue influence on the employee's University duties and responsibilities; or
 - 2) Any resolution of the conflict other than by disclosure and waiver would be ineffective or inequitable and the conflict is not prohibited by statute or regulation.

4. Conflict Management

If a conflict of interest exists and is not waivable, the Associate Director of Human Resources, in consultation with the employee, the responsible Executive-level supervisor, and any others deemed helpful in assessing the situation, will develop a written conflict management plan to manage, reduce, or eliminate the potential for conflict of interest. The conflict management plan may employ strategies including, but not limited to, the following:

- a. Public disclosure of the significant financial interest.
- b. Monitoring of the relevant employment duties by independent reviewers.
- c. Modification of duties of the employee.
- d. Disqualification from participation in the conflicting employment activity, such as search committee, procurement, student advising, or employee supervision.
- e. Divestiture of the conflicting interest.
- f. Severance of relationship that creates the conflict of interest.

Whenever a decision is made to manage rather than eliminate the conflict of interest, the Associate Director of Human Resources, with advice from the Office of Legal Counsel, shall make a written statement explaining why management is in the best interest of the University. Such statement may be included in the conflict management plan. Relevant questions to consider in designing an appropriate conflict management plan include, but are not limited to:

- g. What is the magnitude of the financial interest?
- h. What is the level of incentive created by the interest?
- i. How direct is the link between the interest and the duties of the employee?
- j. Could the conflict adversely affect students?
- k. Could the conflict unreasonably interfere with the employee's commitment to University responsibilities?
- l. Can a reasonably knowledgeable person be identified to monitor the conflict satisfactorily?

C. Appeal Procedure

1. Appeal to the Chancellor

If an employee believes the conditions or restrictions in the conflict management plan are inappropriate, the employee may appeal the decision to the Chancellor. The Chancellor's decision on the appeal shall be the final decision for the University. The Chancellor may appoint a three-member committee of persons who have no involvement in the decision being appealed and who have relevant experience or training to give him/her advice in coming to a final decision.

2. Montana University System Appeal

An employee who disagrees with the final decision of the Chancellor may appeal further as provided in Board of Regents Policy 203.5.2.

D. Compliance Reporting and Record Retention

The UMW Associate Director of Human Resources shall be responsible for maintenance of all disclosure and conflict management records for the period of time required by state and federal laws and regulations. Records will be maintained in a manner to protect sensitive and confidential information consistent with state and federal law.

E. Compliance

Montana Western expects all employees to comply fully and promptly with all requirements of this Policy. Breaches of this policy include, but are not limited to:

1. Intentionally filling an incomplete, erroneous, or misleading disclosure form.
2. Failure to provide additional information as required.
3. Failure to provide a disclosure form as required by this policy.
4. Failure to remedy conflicts of interest.
5. Failure to abide by a conflict management plan.

A violation of this policy may be the basis for discipline of an employee. Such discipline will be imposed consistent with the discipline policies and procedures applicable to the particular employee (collective bargaining agreement, personnel policies and procedures)

Potential sanctions may include, but are not limited to: letter of warning; removal or suspension of privileges related to the violation; suspension without pay; termination.

F. Related Policies

Other UMW policies related to conflict of interest issues include, but are not limited, to the following:

1. UMW Policy 202.1 Faculty Consulting
2. UMW Policy 700.4 Compensated/Uncompensated Professional Activities Outside the University (Administrators & Other Contract Professionals)
3. UMW Policy 700.3 Nepotism
4. In addition, all public employees of the State of Montana are governed by Standards of Conduct – Nepotism, Title 2, Chapter 2, Part 3, MCA

G. Training Plan

The policy will be distributed to all UMW employees with instructions on where to direct questions and timelines for collecting the disclosure forms, and training will be provided (Appendix B Training Plan).

IV. AUTHORITY

BOR Policy 407, 770; MCA 2-2-101, 2-2-202, 2-2-302, 304

V. RESPONSIBILITY

Chancellor, Provost/Vice Chancellor for Academic Affairs, Vice Chancellor for Administration & Finance/Student Affairs, Associate Director of Human Resource Services

**APPENDIX A
CONFLICT OF INTEREST DISCLOSURE STATEMENT**

This form is to be used for the following purposes:

1. For annual disclosures to be submitted by September 30th of each year.
2. For disclosures of potential Conflicts of Interest whenever they occur.

Submit completed form to Dorothy Seymour, Associate Director of Human Resources, who will provide a copy to your Executive-level supervisor. For questions concerning the information required by this form, or any definitions, refer to UMW 700.2 Conflict of Interest & Financial Disclosure Policy or contact Dorothy Seymour, 683-7031, d_seymour@umwestern.edu.

Certification

By signing below, I hereby certify:

1. I have read and understand the UMW Policy 700.2 Conflict of Interest & Financial Disclosure, and
2. I have: [check the applicable box]
 - a. No relationships, contractual commitments, or financial interests that are or might reasonably be perceived to be in conflict with my duties and responsibilities at UMW;
 - b. A potential conflict of interest which has been duly disclosed previously and there has been no change which requires an updated disclosure; or
 - c. Potential conflicts of interest **not** previously disclosed as described below in the Disclosure Statement.

Disclosures

Complete this section only if you have checked 2c above. If you checked 2a or 2b, sign the bottom of the form, date it, and submit it to Dorothy Seymour, Associate Director of Human Resources and provide a copy to your immediate supervisor.

1. I, my spouse and/or dependent child(ren) have the following interests or relationships (check all applicable):
 - a. A Significant Financial Interest in a non-college entity/enterprise directly related to my duties as follows:
 - Salary or other payment for services (e.g., employment, consulting fees/ honoraria)
 - Ownership interest (e.g., stock, stock options, partnership interest, or other)
 - Intellectual property rights (e.g., patents, copyrights, or royalties)
 - b. Hold a position of executive, officer, or director in an entity engaged in commercial activities directly related to my UMW responsibilities.
 - c. Other potential conflict of interest.
2. In my position at UMW, I have responsibility for decisions that may result in direct benefits or detriments to:
 - a. A relative as defined in UMW's Nepotism Policy (parent, grandparent, great-grandparent, child, grandchild, great-grandchild, brother, sister, aunt, uncle, niece, nephew, or cousin, by blood relationship; spouse; or brother, sister, parent, or child of spouse; or spouse of one's brother, sister, parent or child).
 - b. A person in whom or with whom I (or my spouse or dependent children) have a financial interest.
 - c. A person with whom I have a romantic relationship.
3. I participate as an employee, officer, board member, or owner in an entity which has (or wishes to have) rights to intellectual property for which I was an inventor or creator in my work for UMW.

With regard to the above-disclosed interests, attach a written explanation including the name of the entity or person, the nature and extent of the interest or relationship, and any other information necessary to an understanding of the potential conflict of interest.

The information contained in this form is complete and accurate to the best of my knowledge, and I acknowledge my continuing obligation to update my disclosure when there is a significant change in my personal or financial interests creating potential conflicts of interest.

Signature: _____ Date: _____

Print Name: _____

APPENDIX B

CONFLICT OF INTEREST & FINANCIAL DISCLOSURE POLICY

TRAINING PLAN

The policy will be distributed to all employees at the University of Montana Western with instructions on where to direct questions and timelines for collecting the disclosure forms.

Claudia Denker, UM Legal Counsel, will come to campus before the end of Spring Semester 2008 to hold a training session on the policy. She will also provide Western with a PowerPoint training tool.

This training will then be given each year at the Faculty Fall Conference.