

# CONFLICT OF INTEREST POLICY AND PROCEDURE

Joe Figueira  
Associate Vice Chancellor

Montana Tech  
The University of Montana

## Overview of presentation

- ☐ History of COI Policy
- ☐ Conflict of Interest Policies
  - Board of Regents
  - Montana Tech
- ☐ Disclosure
- ☐ Scenario analysis
- ☐ Resources

## Origin of BOR Policy 770

- ☐ Legislative Audit of U of M in 2006
- ☐ BOR Concerns:
  - Identification of Potential COI
  - Analysis and Disposition of Potential COI's

## BOR Policy 770

- ☐ BOR Requirements
  - Each Campus Adopt a COI Policy
  - Cover *All* Employees
  - Requires Annual Disclosure statements
  - Formal Process for Assessment and Disposition
  - TRAINING (why we are here)

## History of COI Policy at MT

- ☐ MT Policy: Conflict of Interest & Financial Disclosure
  - Adopted 12/1998 - NSF requirement
  - Revised 6/17/2008 to meet BOR standards
- ☐ Policy based on following:
  - Montana Code Annotated, Title 2, Chapter 2
  - Board of Regents Policies 407 and 770
  - Federal Regulations
- ☐ MT COI Policy meets BOR requirements

## What is a Conflict of Interest?

- ☐ A conflict of interest *may* exist when an employee's professional actions or decisions may be, are, or have been influenced by considerations of personal or financial gain.
- ☐ MT's COI policy is meant to identify and manage these (potential) conflicts.

## Why is this a problem?

- ❑ Undermine public and professional confidence in the university system
- ❑ Diminish Montana Tech's ability to accomplish its mission
- ❑ Violate state or federal law
- ❑ Real or apparent conflicts can have same impact on public's confidence

## Examples of actions prohibited by Montana state law

- ❑ Disclosing or using confidential information to further your personal financial gain
- ❑ Accepting gifts or bribes
- ❑ Using public time, facilities, equipment, supplies, personnel, or funds for private business purposes
- ❑ Holding ownership in a business that does business with MT *and* you are in a position at MT to make or influence the purchasing decisions

## What is not considered a conflict ?

- ❑ Income from seminars or lectures sponsored by public or nonprofit entities
- ❑ Income from service on advisory committees for public or nonprofit entities
- ❑ Any non-significant interest in a business entity

## Significant Financial Interest

- ❑ Significant Financial Interest  
Anything of monetary value (e.g., salary, stocks, stock options, consulting fees, royalties, etc.) greater than
  - >\$10K/yr Income (aggregated w/spouse & children); or
  - >5% Ownership and valued at >\$10,000 (aggregated w/spouse & children)

## What is a potential conflict?

- ❑ Any significant interest in a business entity which is:
  - directly related to your research, or
  - directly related to a University business decision you can influence involving state funds.
- ❑ Advisor for a public or private granting agency - but usually agency rules apply
- ❑ Authority to influence the hiring, salary, promotion, retention or tenure of a spouse or immediate family member

## What is a potential conflict? (cont.)

- ❑ Intellectual Property rights arising from use of Montana resources.
  - patentable inventions and discoveries
  - copyrightable works which were created under sponsored agreements or were created at the direction of the University as part of the employee's assignment
- ❑ BOR Policy 407 encourages and allows exploitation of IP

## **BOR Policy 407 (§20-25-109 MCA exception)**

A MT employee participating as an employee, officer, board member, or owner in an entity which has (or wishes to have) rights to intellectual property the employee helped to develop in his/her work for MT, the employee must:

- File an invention disclosure statement with the University
- MT receives right of first refusal to co-develop property with inventor
- Inventor must seek and obtain BOR approval under BOR Policy 407

## **Required Disclosures – A Recap**

- “You” means you, your spouse, and immediate family
- Substantial equity interest (>5% and >\$10K in value) or Substantial income (>\$10K annually) in an entity engaged in commercial or research activities directly related to the employee’s University responsibilities.
- Officer or Board Member of such an entity
- Direct participation in a University decision that would benefit a family member, a business partner, or a consensual romantic relationship.
- Significant financial interest 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 UMW as provided for in BOR Policy 407.
- Any personal or financial interest (including outside employment) that creates a potential conflict of interest.

## **Disclosure**

- When
  - Annually – due on or before Sept. 30<sup>th</sup>
  - During the year – whenever the conflict arises
- Evaluation and Disposition of Disclosures
  - Submission to Research Office, copies signed by the employee’s Dean, or Director, or the Vice President overseeing the employee’s supervisory line.
- Disposition
  - No Conflict
  - Waiver
  - Management
  - Elimination

## **Development of the Conflict Management Plan**

- If conflict of interest exists and the conflict is not waivable, the Associate Vice Chancellor, in collaboration with UM legal counsel and the responsible executive-level supervisor will consult with the employee to develop a conflict management plan to manage, reduce or eliminate the conflict of interest.
- The plan shall:
  - Employ any strategy that satisfactorily addresses the conflict,
  - Be in writing,
  - Describe the conflict of interest, and
  - Describe the methods to be used to guard against bias, self-dealing, and inappropriate use of University resources.

## **SCENARIOS**

### **SCENARIO 1**

- Employee’s father owns a Co. Employee wishes to subcontract part of sponsored research work to father’s Co.
  - Disclose?
  - “Immediate family”?
  - Create the appearance of a COI?
  - Manage?

## SCENARIO 2

- ☐ Faculty member has consulting business which employs a student. Faculty member is student's graduate committee chair.
  - Disclose?
  - Potential Conflicts?
  - Manage?

## SCENARIO 3

- ☐ Employee's "partner" (HINT: consensual romantic relationship) applies for a job supervised by employee
  - Disclose?
  - Potential COI?
  - Manage?
  - What if employment is from sponsored research funds and Employee is PI?

## SCENARIO 4

- ☐ MT patents Professor Clever's invention. Dr. Clever forms company to license invention from MT and commercialize it.
  - Disclose?
  - Potential COI?
  - Violate Montana ethics law?
  - BOR 407 approval?

## RESPONSIBLE CONDUCT OF RESEARCH

Joe Figueira  
Associate Vice Chancellor

## Guidance for Responsible Research

- ☐ Professional self-regulation
- ☐ Government regulations  
(Office of Research Integrity, 1989)
- ☐ Institutional policies
- ☐ Personal responsibility

## Research Misconduct - Definition

- ☐ Federal agencies have a uniform definition of research misconduct.
- ☐ Defined as: "fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results".
- ☐ Does not include differences of opinion.

## Definition (cont.)

- ☐ To be considered research misconduct, actions must:
  - Represent a “significant departure from accepted practices”;
  - Have been “committed intentionally, or knowingly, or recklessly”; and
  - Be “proven by a preponderance of evidence”.

## Some Practical Considerations

- ☐ No one “best way” to conduct research
- ☐ No universal method that applies to all scientific investigations
- ☐ Accepted research practices vary by discipline, and even by laboratory

## Examples of Misconduct

- ☐ Misrepresentation
  - State a material falsehood (lie)
  - Fabrication of data
  - Lie by omission
- ☐ Misappropriation
  - Plagiarism
  - Breach of confidentiality
    - When Reviewing manuscripts or grant applications
    - Violating NDA or Confidentiality Agreements

## Examples of Misconduct

- ☐ Obstruction of Investigation of Scientific Misconduct
  - Intentionally withholding or destroying evidence in violation of a duty to disclose or preserve
  - Falsifying evidence
  - Retaliating or intimidating witnesses or potential witnesses
- ☐ Noncompliance with Research Regulations after notice of existence
  - Animal and human subject protections
  - Biohazard materials

## Reporting and Investigation

- ☐ Federal Misconduct policy assumes researchers and research institutions bear the responsibility for reporting and investigating allegations of misconduct.
- ☐ This self-regulation requires a high level of commitment on the part of the university research community to assume responsibility for their own actions, to take misconduct seriously, and to report apparent misconduct by other researchers.

## Procedures Required by Federal Regulations

- ☐ Identify individual who is authorized to receive and investigate allegations of misconduct.
- ☐ Provide for initial inquiry to determine merit
- ☐ Provide for formal investigation (if needed)
- ☐ Designate individual to adjudicate the investigation report, impose sanction or vindicate person charged
- ☐ Identify accusations not made “in good faith”
- ☐ Provide for reporting to ORI

## MT Procedures

- ▣ Research Integrity Officer (AVC for Research)
  - Performs preliminary assessment of allegations
  - Appoints inquiry and investigation committees, if necessary
  - Makes report to Office of Research Integrity if misconduct is found to protect public interest & assure appropriate use of funds
  - Ensures fairness of process
  - Protects both Complainant and Respondent
  - Makes every attempt to maintain confidentiality
  - Maintains records

## CONTACT POINTS

- ▣ Dr. Joseph F. Figueira,  
Associate Vice Chancellor for  
Academic Affairs and Research
  
- ▣ Dr. Claudia Denker, Office of Legal Counsel
  - Conflict of Interest issues and Conflict Management Plans
  - [Claudia.denker@mso.umt.edu](mailto:Claudia.denker@mso.umt.edu)
  - 243-4755