




Policy Number: 400.1

Policy Title: Conflict of Interest

Subject: Section 400 – Personnel

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Approved by: 

Daniel J. Bingham
Dean/CEO
Helena College University of Montana

POLICY STATEMENT:

It is the policy of Helena College University of Montana to ensure that the interests of the college are protected in that employees of the college are expected to avoid any situations in which their personal and/or public service commitments may influence business/personnel transactions to their personal benefit.

Conflicts of interest may exist when an employee’s professional actions, decisions, or commitment may be, are, or have been influenced by considerations of personal or financial gain. Employees are expected to make full disclosures to their supervisors, in writing, of any involvement in situations in which a conflict of interest may exist.

All Helena College policies shall adhere to and be consistent with relevant federal and state laws, rules, and regulations; with Board of Regents’ policies and procedures; and with The University of Montana’s policies and procedures.

PROCEDURES:

The following is a representative, though not all-inclusive, list of activities and external relationships covered by this policy. Any combination of activity and external relationship not specifically discussed which an employee believes or reasonably should believe constitutes a potential conflict of interest, must be reported in writing to the supervisor or appropriate college administrator according to the procedures described within this policy prior to the employee proceeding with said activity.

I. ITEMS NOT CONSIDERED CONFLICTS OF INTEREST

Allowable items if consistent with other applicable federal and state laws and policies of Helena College and the Montana University System:

- A. Helena College or other remuneration;
- B. Any payments by Helena College to the employee resulting from approved royalty or license fee sharing;
- 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 (all income earned for this activity must be reported yearly per BOR Policy 770, see form appendix A); or
- E. Any interest in a business that does not rise to the level of being "significant." An employee has a significant financial or other interest in a business when the employee and the employee's family own more than an aggregate of 5% equity in a business, serve as officers and/or directors of a business, or receive more than an aggregate of \$5,000 income from a business annually.

II. ACTIVITIES REQUIRING DISCLOSURE AND POSSIBLE CONFLICT MANAGEMENT PLAN

*Note: disclosure is required when the following conditions exist: 1) whenever an actual or potentially conflicting of interest is, or is about to be, acquired; 2) annually, on a prepared form (see appendix A); and 3) before submitting a proposal for grants or contracts

- A. Private business interests. Whenever a college employee owns a substantial interest in a commercial or other private organization that does business with the college.
 - 1. The employee should not represent or influence the college in its dealings with the organization.
 - 2. The employee's position should be disclosed in writing to his or her supervisor, the appropriate college administrator, and the organizational unit of the college that conducts said business.
 - 3. Special precautions should be taken to ensure that the terms of any business dealings are not influenced by such relationships.
- B. Research and Scholarly Activity. When an investigator has a significant financial or other interest in a business directly related to the investigator's research interest, would be affected by the investigator's research, or could affect the approval, design, conduct, or reporting of funded research.
- C. Other College Employment. When the potential exists that an employee may be paid twice for performing the same service. Employment in an organizational unit of the college, other than the unit in which a person is regularly employed, should take place only with the consent of the supervisor of the unit in which the employee is regularly employed and college administration.
- D. Personnel. When college employees and students are given work assignments of a personal nature, except where projects are sought by instructional departments for instructional value only.
- E. Consenting Romantic or Sexual Relationship. Consenting romantic or sexual relationships between faculty and students or between supervisor and employee, while not expressly forbidden by university policy, present many problems and generally are deemed unwise. In the view of Helena College, the faculty-student or supervisor-employee relationship is one instance of a professional-

client relationship. The respect and trust accorded faculty by a student, as well as the power exercised by faculty in giving praise, grades, recommendations for future study or employment, etc., greatly diminish the student's actual freedom of choice should offensive behavior or sexual favors be included with the faculty member's other behavior and legitimate demands. Additionally, the faculty member's ability to appropriately and objectively perform educational and evaluative functions for this student is perceived to be impaired in such situations. The case of supervisor-employee relationships is believed to pose similar problems.

- F. A faculty member, who enters into a relationship with a student, or a supervisor with an employee, must realize that it could be exceedingly difficult for them to defend against any sexual harassment complaint following the termination of any such relationship. In addition, Helena College must maintain its reputation for fairness and objectivity towards other students, employees, and faculty members.
- G. For these reasons, Helena College discourages mutually consenting romantic or sexual relationships between faculty and student or supervisor and employee. Should such a relationship develop, the faculty member or supervisor will immediately disclose the relationship to his or her supervisor or human resources. The supervisor and employee will take steps to eliminate a perception of unfairness and lack of objectivity. Failure by the employee to report the relationship or the supervisor to take appropriate action, may result in disciplinary action.
- H. Equipment. When use of college equipment is used for purposes other than college instruction and/or job performance. College equipment and materials are to be used in strict compliance with state and federal laws and current college policies and procedures.
- I. Supplies. When personal uses of expendable supplies are used for personal gain and/or projects that result in personal compensation or benefit to an organization and are realized as a cost to the college. For example, personal use of consumables for personal or organizational benefit.
- J. Facilities. Personal use of campus facilities is closely regulated and requires prior approval by the appropriate supervisor or office that schedules college facilities. Community groups, however, are encouraged to schedule their activities on campus.
- K. Gifts. When a gift in excess of \$10,000 a year is made to the college from an associated entity in which the employee has a significant financial or other interest.
- L. Intellectual Property. When an employee is a named inventor of intellectual property owned by the college, and the employee has a significant financial or other interest in a business entity related to the intellectual property.
- M. Board Memberships. When any Helena College employee receives support (sponsored work or a gift) from a business in which the employee or the employee's immediate family serves on the board of directors or advisory board, whether or not compensation is received for such services.
- N. External Activities. Disclosure is required when an employee holds an executive position in a business engaged in commercial activities directly related to the employee's Helena College responsibilities.

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 Assistant to the CEO/Dean, with copies to the CEO/Dean or Direct Supervisor 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.

III. ADMINISTRATIVE RESPONSIBILITIES

Disclosure is required when:

- A. An employee has administrative responsibilities (e.g., dean, department chair, or director) on behalf of Helena College with respect to the operation of Helena College or any Helena College affiliated organization that is beneficial to a business in which the employee, the employee's immediate family member, or an associated entity has a significant financial interest.
- B. An employee has administrative responsibilities on behalf of Helena College with respect to any supported employment activity (sponsored research or a gift) in which the employee, an immediate family member, or an associated entity has a significant financial interest in the sponsor or donor.
- C. An employee, while performing Helena College makes professional referrals to a business in which the employee, an immediate family member, or an associated entity has a significant financial interest of which the employee is aware or should reasonably be aware.

Employee Training:

Each employee of the college shall receive Conflict of Interest training once every three years beginning with the commencement of their employment at the College. This training shall be conducted at the beginning of each academic year; however, it is the responsibility of the employee to ensure that they have complied with College training policy. The Human Resources Department shall maintain employee training records on all mandatory College training.

Disclosure Review and Disposition:

- A. Initial Review of each disclosure form will be done by the Assistant to the CEO/Dean. The Assistant to the CEO/Dean 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 Assistant to the CEO/Dean. If a conflict is determined to exist, the Assistant to the CEO/Dean, 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 College 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.

Conflict Management:

If a conflict of interest exists and is not waivable, the Assistant to the CEO/Dean, 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 Assistant to the CEO/Dean, with advice from the Office of Legal Counsel, shall make a written statement explaining why management is in the best interest of the College. 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:

- A. What is the magnitude of the financial interest?
- B. What is the level of incentive created by the interest?
- C. How direct is the link between the interest and the duties of the employee?
- D. Could the conflict adversely affect students?
- E. Could the conflict unreasonably interfere with the employee's commitment to College responsibilities?
- F. Can a reasonably knowledgeable person be identified to monitor the conflict satisfactorily?

Appeal Procedure:

- A. If an employee believes the conditions or restrictions in the conflict management plan are inappropriate, the employee may appeal the decision to the CEO/Dean. The CEO/Dean's decision on the appeal shall be the final decision for the College. The CEO/Dean 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.
- B. An employee who disagrees with the final decision of the CEO/Dean may appeal further as provided in Board of Regents Policy 203.5.2.

Compliance Reporting and Record Retention:

The Assistant to the CEO/Dean at the Helena College 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.

Compliance:

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

- A. Intentionally filling an incomplete, erroneous, or misleading disclosure form.
- B. Failure to provide additional information as required.
- C. Failure to provide a disclosure form as required by this policy.
- D. Failure to remedy conflicts of interest.
- E. 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.

Compliance with State Law:

- A. An MUS employee may not regulate, monitor or engage in financial transactions with entities that serve the employee's private business purposes or for an entity which the employee serves as an officer without addressing the conflict through this policy. [Ref 2-2-121(2), MCA].
- B. An MUS employee may not receive pay from two separate public employment positions that have overlapping hours. [Ref. 2-2-104(3), MCA]
- C. An MUS employee must disclose employment in public positions that may overlap with his or her employment with the MUS.
- D. In some cases, an MUS employee who receives multiple salaries from multiple public employers for overlapping work hours, must report their employment and salaries to the Commissioner of Political Practices within 15 business days of the occurrence, contract agreement, or receipt of payment. ARM 44.10.601.
- E. An MUS employee may not solicit or accept employment, or engage in negotiations for employment, with an entity an employee regulates unless the employee provides written notification to the MUS. [Ref. 2-2-121(2)(f)]
- F. A MUS employee must disclose to the CHE and to the Commissioner of Political Practices, any ownership or employment interest that creates a conflict that may infringe on the employee's ability to perform assigned duties in the best interest, of the MUS. [Ref. 2-2-105(4) and 2-2-131, MCA]
- G. An MUS employee is prohibited from accepting any payment for performing official duties, gifts over \$50 in value, and gifts of any value which are intended to influence an employee's official actions such as patterns of non-substantial gifts, educational offers, and reduced rates on loans or goods. [Ref. 2-2-104(1)b) and (2), MCA and § 45-7-104, MCA.] All prohibited gifts and offers of gifts or payments must be reported to the CHE.
- H. An MUS employee must report any crime, attempted crime, or planned crime of which he is aware to the CHE and to proper law enforcement authority.
- I. The CHE and the campus CEOs will file a business disclosure statement with the Commissioner of Political Practices prior to December 15 of each even numbered year. [Ref. § 2-2-106, MCA]

IV. PROHIBITED ACTIVITIES

The following activities create a conflict of interest and are not allowed:

- A. Purchasing goods or services. An employee participates in decisions to purchase goods or services for Helena College in a manner that violates applicable federal or state purchasing laws, plus applicable Helena College or Montana University System purchasing policies.
- B. Improper employment relationship. An employee receives a significant, undisclosed financial interest or other benefit in return for employing another person on a Helena College project.

V. CONFLICTS OF INTEREST IN PROFESSIONAL ACTIVITIES

An employee may engage in compensated or uncompensated professional activities that are not sponsored by the college subject to the following terms and conditions:

- A. Prior approval must be obtained if uncompensated volunteer or community service professional activity is to be part of the individual's regularly assigned duties, with expenses paid by the college and duties performed during regular working hours.
- B. For activities not sponsored by the college, employees shall take annual leave if such activities will be performed during regular working hours. Unless the activity has substantial benefit to the

college as well as to the employee, the employee may be authorized to have travel paid by the college and to attend during regular working hours without taking annual leave. Determinations under this provision should be made by the supervisor prior to the activity.

- C. An employee engaging in compensated professional activities not sponsored by the college shall inform his or her client or outside employer that he or she is acting in a private capacity and in no way represents the college or has authority to bind the college. When acting in such a capacity, the employee is not covered by the college's general professional liability insurance. This policy shall not be interpreted as a waiver of defenses the college might have for actions of employees acting in their private capacities, and these employees shall hold the college blameless with respect to activities not within the scope of their job descriptions or organizational expectations.
- D. In addition, all public employees of the State of Montana are governed by the Standards of Conduct – Code of Ethics, [Title 2, Chapter 2, Part 1, MCA](#).
- E. No Helena College may undertake consulting or professional assignments that would result in a conflict of interest with assigned college duties.

VI. CONFLICTS OF INTEREST IN NEPOTISM

- A. Relatives by blood or marriage may not be employed by Helena College in any positions in which one relative would have a supervisory relationship with the other, or be in a position to recommend the hiring of the other.
- B. When a person would be required to make decisions of a supervisory nature concerning a relative, his or her supervisor will assume that responsibility. It is the responsibility of the parties involved to identify when a supervisory relationship exists and to take the necessary steps to correct the situation.
- C. For the purposes of this policy, a supervisor is defined as a person having the authority to oversee and direct work assignments, assign tasks, schedule hours of work, determine rate of pay, evaluate work performance, and hire, fire, or discipline employees.
- D. In addition, all public employees of the State of Montana are governed by Standards of Conduct – Nepotism, [Title 2, Chapter 2, Part 3, MCA](#).

VII. DEFINITIONS

- A. **Associated Entity** – any business, trust, organization, or enterprise over which the employee, alone or together with an immediate family member, has a significant financial interest.
- B. **Business** – any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust, or any other nongovernmental legal entity organized for profit, not-for-profit, or charitable purposes.
- C. **Conflict of Interest or Potential Conflict of Interest** – occurs when there is a divergence between the employee's private interests and professional obligations to Helena College, such that an independent observer might reasonably question whether the employee's professional actions or decisions are determined by considerations of personal gain, financial or otherwise. An actual conflict of interest occurs when an employee has a significant financial interest in a business that could directly and materially affect, or be directly and materially affected by, the design, conduct, or use of facilities in, or reporting of, research, educational, or public service activities performed as part of the employee's duties at Helena College. A potential conflict of interest exists when an employee has a significant financial interest in a business that has any dealings with the college.
- D. **Employee** – any person possessing either a full-time or part-time position at Helena College who receives wages and/or benefits from Helena College. For the purposes of this policy, the definition of "employee" also includes members of the individual's immediate family.

- E. **Executive Position** – any position that includes responsibilities for a significant segment of the operation or management of a business.
- F. **Gift** – an unrestricted donation of assets to Helena College or any affiliate of Helena College. The donor may specify the general purpose for which the gift may be used, but there may be no other terms and conditions specified concerning the use of such assets. Assets may be in the form of cash, securities, tangible personal property, partnership interests, or pledges for assets that are assigned to Helena College.
- G. **Immediate Family or Family** – includes any person subject to Montana nepotism laws as set forth in Standards of Conduct – Appointment of relative to office of trust or emolument unlawful -- exceptions -- publication of notice, [Title 2, Chapter 2, Part 3, MCA](#).
- H. **Participate** – to be part of the described activity in any capacity including, but not limited to, serving as the principal investigator, co-investigator, research collaborator, or provider of direct services. The term is not intended to apply to individuals who provide primarily technical support or who are purely advisory.
- I. **Significant Financial or Other Interest** – 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 and includes such interests held by the employee and by the employee’s family members.

However, a significant financial or other interest does not include any of the following:

1. Salary or other remuneration from Helena College, including any payments by Helena College to the employee resulting from royalty or licensee fee sharing.
2. Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities.
3. Income from service on advisory committees or review panels for public or nonprofit entities.
4. An equity interest that, when aggregated for the employee and the employee’s immediate family, meets both of the following tests: (a) equity interest is \$5,000 or less in value as determined through reference to public prices or other reasonable measures of fair market value; and (b) represents no more than a 5% ownership interest in any single entity.
5. Annual salary, royalties, or other payments from any source other than those referenced in (1) and (2) above that individually do not exceed \$5,000 or, when aggregated for the employee and the employee’s immediate family over the next 12 months, are not expected to exceed \$5,000.
6. Gifts of less than \$5,000 annually from a business in which an employee has a significant financial interest.
7. A financial interest arising solely by reason of investment in such business by a mutual, pension, or other institutional investment fund over which the employee does not exercise control.

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 Summer Marston, Assistant to the CEO/Dean. For questions concerning the information required by this form, or any definitions, refer to 400.1 Conflict of Interest Policy or contact Summer Marston, (406) 447-6927, summer.marston@umhelena.edu.

I. CERTIFICATION

By signing below, I hereby certify:

1. I have read and understand the Conflict of Interest Policy 400.1, 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 Helena College;
 - 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.

II. 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 Summer Marston, Assistant to the CEO/Dean 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 Helena College responsibilities.
 - c. Other potential conflict of interest.
- 2. In my position at Helena College, I have responsibility for decisions that may result in direct benefits or detriments to:
 - a. A relative as defined in Helena College’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 Helena College.

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 / Type Name: _____