

# Conflict of Interest Policy

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## Policy

TERC assumes that all of its employees act responsibly and with integrity at all times so that public confidence in TERC is ensured. Nonetheless, situations can arise that create conflicts of interest that TERC needs to address and resolve. Accordingly, this policy requires all TERC Investigators to disclose to a Conflicts Committee (CC), described below, any significant financial interest that would reasonably appear to affect actual or potential TERC activities. In addition, TERC expects that any employee who has a situation that might constitute a conflict of interest will discuss that situation with his/her principal investigator or with any member of the Conflicts Committee. If the principal investigator believes a conflict of interest exists, or is not certain, s/he is required to bring the situation to the attention of a member of the Conflicts Committee.

## Definitions

As used in this Policy, the following words shall have the following meanings:

- Company – any corporation, foundation, partnership, association, or other legal entity (other than TERC), excluding governments. A Company shall include all of its affiliates and other associated entities.
- Committee Chair – the individual who chairs the CC, as decided by the President. Currently the Director of Human Resources also acts as the Committee Chair.
- Government – an entity controlled by the United States government, a state government, or a foreign government.
- Conflict of Interest – an actual or potential conflict between the personal or financial interests of an Investigator and/or the spouse, domestic partner (1), dependent children of the Investigator, and the interests of TERC or the general public; or the reasonable appearance of such a conflict to the general public.
- Employee – an individual associated with TERC, including all staff, whether full-time, part-time, temporary or regular; *not* including consultants or subcontractors.

- Investigator – a principal investigator/project director, co-principal investigators/co-project directors, and any other person at TERC who is responsible for the design, conduct, or reporting of research or educational activities funded or proposed for funding.
- Equity – all ownership interests in a Company and all rights to obtain ownership interests in a Company such as common or preferred stock, warrants, options, and partnership units, and compensation arrangements based on equity performance. "Equity" does not include ownership interests that are held through publicly-traded mutual funds.
- Non-Equity Compensation – all compensation, other than Equity, that is provided by a Company or is contractually promised by a Company, such as salary, fringe benefits, gifts, consulting fees, honoraria, intellectual property rights (e.g. copyrights, patents and royalties from such rights), goods, services and travel expenses.
- Significant Financial Interest – anything of monetary value, including but not limited to salary or other payments for services (e.g., consulting fee or honoraria); equity interest (e.g. stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights). The term does not include: (1) salary, royalties or other remuneration from the TERC; (2) income from seminars, lectures, or teaching engagements sponsored by public or non-profit 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 Investigator and the Investigator's spouse/domestic partner and dependent children, meets both of the following tests: does not exceed \$5,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a 5% ownership interest in any single entity; or (5) salary, royalties or other payments from a company other than TERC that, when aggregated for the Investigator and the Investigator's spouse/domestic partner and dependent children, are not expected to exceed \$5,000 during the twelve month period.

*(1) A domestic partner is an individual identified by the employee to TERC as a domestic partner as defined in TERC's "Affidavit of Domestic Partnership", or someone who has a close enough familial relationship sufficient to lend itself to the appearance of conflict.*

## **Disclosure of Significant Financial Interests**

TERC requires all Investigators to disclose Significant Financial Interests to the Conflicts Committee where that Significant Financial Interest could reasonably appear to be affected by the Investigator's activities. The following are situations in which Significant Financial Interests must be disclosed:

- Government Grant Applications or Proposals, or Government Funded Research or Educational Activities. If an Investigator intends to submit an application for funding from a U.S., state, or foreign government agency, or performs or directs research or educational activities that are funded directly or indirectly (i.e. through a subcontract) by a U.S., state or foreign government agency, the Investigator should comply with any

disclosure and approval procedures required by the agency in connection with such application, proposal or funding.

In order to comply with National Science Foundation requirements, TERC requires all Investigators to disclose to the Conflicts Committee and obtain approval of (1) any Significant Financial Interest that would reasonably appear to be affected by the research or educational activities funded, or proposed for funding, by a government sponsor; and (2) any Significant Financial Interest in any Company whose financial interest would reasonably appear to be affected by the research or educational activities funded, or proposed for funding, by a government sponsor.

- **Company-Sponsored Grant Applications or Proposals, or Company Funded Research or Educational Activities-** TERC places the same requirements on Investigators where research or educational activities are Company sponsored, as it does where research or educational activities are government-sponsored. Accordingly, Investigators should disclose to the Conflicts Committee and obtain approval of (a) any Significant Financial Interest that would reasonably appear to be affected by the research or educational activities funded, or proposed for funding, by a Company sponsor; and (b) any Significant Financial Interest in any Company whose financial interest would reasonably appear to be affected by the research or educational activities funded, or proposed for funding, by a Company sponsor.
- **Licensing to Companies.** If TERC intends to grant a license to TERC-owned intellectual property, directly or indirectly to a Company, and if the Employee who developed or created that intellectual property or who is involved in negotiating the license, has a Significant Financial Interest in that Company, the Significant Financial Interest should be disclosed immediately to the Conflicts Committee.
- **Voluntary.** In addition to the above minimum requirements, an Employee should consider disclosing any other financial or related interests that could present an actual conflict of interest or be perceived to present a conflict of interest. Prompt disclosure is critical to protecting an individual's reputation from potentially embarrassing or harmful allegations of impropriety.

## **Procedure.**

Each Investigator must complete a "Conflict of Interest Disclosure Statement" at the time of hire, and annually thereafter. TERC employees who are promoted to a project leadership role must complete a "Conflict of Interest Disclosure Statement" at the time of promotion. In addition, each Investigator must update their "Conflict of Interest Disclosure Statement" when:

- **Submitting a proposal for funding.** The Investigator must indicate on the Proposal Announcement Form whether there is a significant financial Conflict of Interest related to the work to be conducted under the proposed project. If yes, a Disclosure Statement must be submitted as part of the proposal process and shall be included in the documentation required and approved by the CFO. A proposal will not be submitted, nor will funds be

released to the Investigator, until a Disclosure Statement is submitted to the CFO.

- **Upon assuming leadership of a funded project.**
- **When a New Significant Financial Interest or Other Conflict of Interest arises.** Employees must update their last submitted Conflict of Interest Disclosure Statement as soon as possible after the Significant Financial Interest, or other Conflict of Interest arises, but in no case later than thirty (30) days after the interest arises.

Disclosure Statements can be downloaded from the HR and Finance pages of TERC's internal web site. The Investigator shall then attach to the completed statement all supporting documentation. Such statements and documentation will be forwarded to the Director of Human Resources.

The Director of Human Resources will send out a reminder once a year at year-end to remind Investigators to review their financial interests and to disclose any new Significant Financial Interests

Any Disclosure Statement with a conflict noted will be forwarded by the CFO to the CoI Committee for resolution. In the event a Conflict of Interest is declared during proposal submission, it must be resolved before any expenditure of funds for the new project takes place.

### **Significant Financial Interest of a Conflicts Committee Member.**

In the event a member of the Conflicts Committee has a Significant Financial Interest that requires disclosure under the Policy, he or she must abstain from participation on the Conflicts Committee with respect to that significant Financial Interest, and must disclose the Significant Financial Interest to the President of TERC for review and action consistent with this Policy.

## **Conflicts Committee**

### **Authority.**

The Conflicts Committee has the authority to review Conflict of Interest disclosures and to manage, reduce or eliminate Conflicts in a fair and objective manner. The Committee will have broad discretion in resolving Conflicts. Over time, decisions made by the Committee will be used as guidance in future cases.

### **Membership, Meetings and Responsibilities.**

This policy will be administered by a four-member Committee. The Director of Human Resources and the CFO shall be permanent members of the committee. In addition, two additional committee members shall be appointed by the President. The additional members shall serve for a term of two years and may not serve for more than two consecutive terms. The

Committee shall meet on an "as needed" basis, but not less frequently than twice a year. Meetings shall be convened by the Committee Chair.

The DHR shall be responsible for collecting and maintaining files on disclosure statements. The Committee Chair shall be responsible for scheduling meetings, setting the agenda, distributing information in advance of meetings, and keeping minutes of all meetings.

Decisions of the Committee shall be made by consensus of the members in as expeditious a manner as possible. Legal counsel may be consulted as part of the deliberations. In all its activities, the Committee shall take care to assure that communications and information are kept confidential to the maximum extent possible.

The President will be notified of any conflicts of interest discussed by the committee, and of the outcomes of its deliberations in each case.

### **Maintenance of Records.**

The Committee Chair shall maintain records of all final decisions and all actions taken for at least three (3) years from the date of termination or completion of the grant to which they relate, or until resolution of any government action involving these records, whichever is longer. In addition, the Committee will update all disclosures received from employees by the Director of Human Resources during the period of an award as new reportable Conflicts of Interest are disclosed. The central file of the above records and all Conflict of Interest Disclosure Statements submitted will be kept by the Director of Human Resources and stored on a password-protected file-sharing service.

## **Management of Conflicts**

Following review of a disclosure and all supporting documentation, the Conflicts Committee will determine whether the Significant Financial Interest which has been disclosed could directly and significantly affect the design, conduct or reporting of the funded activities. The Conflicts Committee will permit a Conflict of Interest to exist only under conditions that will minimize any harm that could result. The Committee may decide upon one or more of the following dispositions with respect to Conflicts in funded activities, or in applications or proposals for funding:

- impose any interim measures necessary or desirable to preserve the existing situation until a more in-depth review by the Committee can be completed, causing as little impact as possible on affected employees;
- approve the potential or apparent Conflict because the circumstances require no action;
- approve the potential or apparent Conflict with conditions such as notification of the funding agency, public disclosure in publications describing the results of the activities; independent monitoring of the funded activities; modification of the funded activities plan(s); or imposition of a holding period on the stock or other security in the case of a

Significant Financial Interest consisting of Equity, which will minimize the appearance of influence on the outcome of the funded activities;

- prohibit the Conflict with compliance steps to remove the Conflict, such as divestiture of the Significant Financial Interest, disqualification of the Investigator from the funded activities, or severance of relationships that create the Conflict. In addition to the above, the Committee may refer the matter to the appropriate TERC official or other committee for action including corrective action. Any Conflict involving government-sponsored research or educational activities that cannot be satisfactorily managed, reduced or eliminated must be reported by the Committee to the sponsoring agency, if required by that agency (e.g., the NSF).

The President will be notified of all sanctions or limitations imposed on an Investigator by the Conflicts Committee. The sanctions or limitations will be communicated to the Investigator by the Committee Chair. The Investigator is required to provide documentation to the Director of Human Resources for any compliance measures imposed by the Conflict Committee. The Chair will be responsible for any follow-up necessary to assure compliance.

TERC will keep the funding agency's Office of the General Counsel appropriately informed if it finds that it is unable to satisfactorily manage a conflict of interest.

## **Collaborators, Subrecipients and Subcontractors**

Where funding is received from a government agency, all collaborators, subrecipients and subcontractors involved from outside (non-TERC) institutions must provide an assurance from their institutions that they are in compliance with applicable governmental policies regarding disclosure of financial interests, and that their portion of the project is in compliance with their institutions' policies.

## **Public Statements**

All Investigators who perform or direct activities funded by a Company in which they have a Significant Financial Interest should refrain from making public statements about the results of the funded activities relating to that Company prior to formal publication of the results or formal presentation at a recognized scholarly meeting. This restriction applies even if TERC has approved an activity that presented a Conflict of Interest.

## **Failure to Disclose/Inaccurate Disclosure**

All Employees are expected to comply with this Policy. Failure to disclose potential conflicts of interest, or willful disclosure of inaccurate information, may result in sanctions by the Conflicts Committee. Such sanctions include but are not limited to disciplinary action, removal from the project, reassignment or dismissal.

## **Appeals**

An Employee may appeal a decision of the Committee by requesting a review of the decision by the President or her/his designee. At the President's discretion, such appeal may be a review of the documentary record of the decision or may include a meeting with the Employee and member(s) of the Committee. The decision of the President shall be final.

## **Investigator Trainings**

Each investigator must complete training on TERC's policy on financial conflicts of interest, her/his responsibilities regarding disclosure of significant financial interests, and the PHS financial conflict of interest regulations found at 42 CFR part 50 subpart F & 45 CFR part 94, at least every 4 years and prior to engaging in research related to any Public Health Service (PHS)-funded grant.

Each investigator must also complete the above training immediately when any of the following circumstances apply:

- (1) TERC revises its financial conflict of interest policies or procedures in any manner that affects the requirements of Investigators;
- (2) An Investigator is new to TERC; or
- (3) TERC finds that an Investigator is not in compliance with TERC's financial conflict of interest policy or management plan.

## **Attachment A: Examples Of Conflicts Of Interest**

The situations below describe potential conflicts of interest between the personal interests of TERC employees and the interests of TERC as an organization. In each situation, the TERC employee is faced with a division of loyalties and a choice between personal benefit and benefit to TERC.

TERC intends to subaward with Fast Forward Video, a video company, to produce a video for the SlapDash Project. The spouse of Justin Tyme, a TERC employee working on the Project, owns Fast Forward Video. Justin faces a potential conflict of interest which should be disclosed to the TERC Conflict Committee because he has a "Significant Financial Interest" (equity that represents more than 5% of the total equity in a company that is owned by and under the control of his spouse).

TERC has been contacted by Tattle Toys, a company that manufactures children's toys. The company has asked TERC whether it would be willing to provide Tattle Toys with written materials relating to child development, which TERC developed several years ago and to which TERC owns copyright. TERC is eager to work with Tattle Toys and would like to provide the written materials through a license (i.e. an agreement with Tattle Toys that would enable the company to use the materials for specified purposes and for an agreed-upon price, but would allow TERC to continue to own, control and use the materials as well).

Gabby Hayes, a TERC employee who helped develop the materials, is asked to meet with Tattle Toys representatives to discuss the terms of the license and the relationship between Tattle Toys and TERC. Due to her expertise on the subject of child development, Gabby was asked last year by Tattle Toys to become a member of the company's Board of Directors, an uncompensated but potentially influential position. She agreed to do so and has been an active member of the Board since then. Gabby does not have a "Significant Financial Interest," as defined by the TERC Policy on Conflicts of Interest, as she does not receive either "Equity" or "Non-Equity" compensation from Tattle Toys. She does, however, have a conflict because her ability to represent fully TERC's interests in the license discussions with Tattle Toys may be compromised by her position on Tattle's Board. While Gabby is not required under the Policy to disclose her conflict of interest to the Conflicts Committee, she should do so in these circumstances. Disclosure will serve to protect her reputation from potentially embarrassing or harmful suggestions of impropriety, and will protect TERC's interests as well.

TERC has entered into a contract with Sine Qua Non Publishers to develop a mathematics curriculum. Steffi Graph, a TERC employee working on the curriculum, is approached by Sine's editor and asked whether she would be interested in consulting individually for Sine on other mathematics-related subjects. Sine's editor has indicated that she would like Steffi to consult on a regular basis and would be willing to compensate her up to the amount of \$25,000 over the course of the first year. Steffi faces a potential conflict of interest which should be disclosed to the TERC Conflicts Committee because she has a "Significant Financial Interest" (non-equity compensation in an aggregate amount greater than \$5,000 within a 12-month period).