SHOULD I OR SHOULDN’T I?
An Education in Ethics

Presenters:
Kim Calvery – Office of Post Award Administration
Kelly Kozisek – Procurement and Contract Services
Nicole Wolf – Office of Research Integrity
PRESENTATION OVERVIEW

- Defining Conflict of Interest

- Types of conflicts
  - Nepotism
  - Research conflicts of interest
  - Conflict of commitment
  - Financial conflicts of interest (PaCS)
  - Gifts

- Questions
What is a Conflict of Interest?

When a personal interest has the ability to influence professional judgment.

- **Nepotism**
  - Family relationship results in preferential treatment.

- **Research**
  - Financial interest influences the design, conduct or reporting of research.

- **Commitment**
  - Outside activity inhibits a faculty member from completing University responsibilities.

- **Financial/PaCS**
  - Financial or other personal interest compromises procurement or contracting decision.
Nepotism

Classified and student employees

Unclassified employees

Oregon State University
Office of Human Resources, 122 Kerr Administration Building, (541) 737-3103

OREGON STATE UNIVERSITY
Employment & Supervision of Immediate Family Members

PURPOSE
To outline the University's policy regarding hiring and supervision of family members of classified and student employees. The University's policy for unclassified employees is set forth in OAR 580-022-0055.

APPLICABILITY
This policy applies to classified and student employees. Unclassified employees should refer to OAR 580-022-0055, Employment of More Than One Member of a Household.

Employment of More than One Member of a Household

580-022-0055

Employment of More Than One Member of a Household

(1) In appointing academic staff members, the Department seeks those persons most qualified to fulfill its teaching, research and service obligations. Accordingly, members of the same family may be appointed to academic staff positions when it has been determined that they are the most qualified candidates for the positions.

(2) No academic staff member, without prior permission of the immediate supervisor, shall participate in employment decisions, supervision or grievance adjustment concerning or involving the staff member's spouse, child or stepchild.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

http://oregonstate.edu/admin/hr/nepotism
RESEARCH CONFLICT OF INTEREST

- **Financial Interest**
  - Remuneration of $5,000 or more
  - Equity of $5,000 or more in a public entity
  - Any equity in a private entity

- **External Entity**
  - Examples:
    - Ownership
    - Employee
    - Officer
    - Consultant

- **Overlap of Interests**
  - Funding
  - Collaboration
  - Research Field

- **Relationship**
  - Threshold

- **Research Objectivity**
  - Design, Conduct and Reporting

**Oregon State University**

**External Activities**

**Investigator**

**OSU Research**
**Research COI Requirements**

- **Disclosure**: On an annual basis, disclose financial interests
  - Who must disclose?
    - Professorial faculty, Research Associates, Post-Doctoral Fellows and Scholars
    - Any individual listed by name on a sponsored research project
    - Any other individual requested to disclose by their unit head, dean or the COI Officer

- **Training**: Complete one-time training through online research ethics modules (CITIprogram.org)

- **COI Management**: When a conflict of interest exists, follow the standards set out in a COI management plan.
  - Management generally includes: Disclosure to personnel you oversee and research participants; disclosure in manuscripts and presentations; independent evaluation; restricted outside entity involvement in OSU activities.
RESEARCH COI EXAMPLES

 An investigator creates a small start-up company that licenses OSU technology developed by the investigator.

 A company proposes to fund the research of an investigator who consults for them outside of OSU.

 An investigator sits on the Board of a company that collaborates on the investigator’s OSU research (and receives remuneration for the Board membership).
CONFLICT OF COMMITMENT
Conflicts of time commitment between outside activities and University responsibilities.

http://oregonstate.edu/admin/hr/document/pdf/conflict-commitment-policy
Financial Conflicts of Interest (PaCS)

- Now that you have vetted your contract or transaction for Research Conflicts of Interest.....
FINANCIAL CONFLICTS OF INTEREST (PaCS)

- Lets consider financial Conflicts of Interest pertaining to purchasing and contracting, and better understand how we can prevent them.
Financial Conflicts of Interest (PaCS)

- Financial Gain or Avoidance of Financial Loss
- Policies that Help Mitigate Financial COI’s
- Gifts
- OUS Code of Ethics Statement
FINANCIAL CONFLICTS OF INTEREST (PaCS)

- Policies pertaining to Purchasing and Contract Ethics fall under PaCS Section 100
Financial Conflicts of Interest (PaCS)

- Policy 101-001 Financial Gain or Avoidance of Financial Loss

  - OSU Employees are prohibited from using or attempting to use their positions to gain financial benefit or to avoid financial cost for:

    - OSU Employee
    - Relative (as defined under ORS 244)
    - Member of their household
FINANCIAL CONFLICTS OF INTEREST (PaCS)

Examples of Potential Conflicts of Interest:

- OSU employee goes to Staples and uses their Rewards Cards to accumulate rewards points for items being purchased for the university, using university funds

- OSU employee sets up a Personal Services Contract for consulting services with their spouse’s sibling

- As part of an RFP selection committee, OSU employee is a partner in an offeror’s firm
FINANCIAL CONFLICTS OF INTEREST (PaCS)

Purchasing From or Contracting with OSU Employees, Relatives or Members of the Household

It is possible to purchase from or contract with an OSU employee, an employee’s relative or a member of an OSU employee’s household.

How?
FINANCIAL CONFLICTS OF INTEREST (PaCS)

Purchasing From or Contracting with OSU Employees, Relatives or Members of the Household

Policy 101-002

101-002: Purchasing from or Contracting with OSU Employees, Relatives of OSU Employees or Members of the OSU Employee's Household

Any purchase or contract for the provision of goods or services, regardless of the dollar value, is subject to the provisions of this policy. OSU may only purchase from or contract with OSU employees, relatives of OSU employees (relative as defined in ORS 244) or members of the OSU employee’s household if all of the following requirements are met:

a) The purchase or contract is NOT for the Department, College or Administrative Unit that the OSU employee is currently working for or has worked for as an employee in the previous 6 months;

b) The goods or services sought for purchase or contract are substantially different from the work the employee performs in their employment with OSU;

c) The OSU employee, relative of an OSU employee or member of the OSU employee’s household must be determined to be an Independent Contractor for the services being proposed;

d) The OSU employee, relative of an OSU employee or member of the OSU employee’s household must have a federal tax identification number separate from their social security number; and

e) PaCS must conduct a competitive solicitation in accordance with OAR 580-062-0020 (2) or conduct a sole source process in accordance with OAR 580-062-0020 (8).
FINANCIAL CONFLICTS OF INTEREST (PaCS)

Purchasing From or Contracting with OSU Employees, Relatives or Members of the Household

1. The purchase or contract is NOT for the department that the OSU employee is currently (or for the past 6 months) working for as an employee.
FINANCIAL CONFLICTS OF INTEREST (PaCS)

Purchasing From or Contracting with OSU Employees, Relatives or Members of the Household

2. The goods or services sought are substantially different from the work the employee performs in their employment with OSU.
FINANCIAL CONFLICTS OF INTEREST (PACS)

Purchasing From or Contracting with OSU Employees, Relatives or Members of the Household

3. The employee, relative or household member must be determined to be an Independent Contractor for the services being proposed.
FINANCIAL CONFLICTS OF INTEREST (PaCS)

Independent Contractor Determination Form

Employee vs. Independent Contractor Determination

Name of Contractor: ________________________________

Prior to entering into any contract for services, it is incumbent upon OSU to ensure that the relationship and scope of services do not represent an employer-employee situation. Each time a department contemplates a contract for services, the following information must be reviewed and the checklist completed. For Personal Services Invoices, the document must be retained in the department’s files; for Personal/Professional Services Contracts, the document must be submitted with the contract to the Contracts Office for review and approval.

When contemplating a contract for services, an independent contractor is a person or business entity which:
- is free from OSU’s right to direct and control
- is responsible to OSU only for the contracted result of the work, not the manner or method used to accomplish the work
- controls how the service is provided, who provides it, and the means of accomplishing it
- sets his/her own prices for goods and fees for service
- can terminate contract while not terminating his/her business
- can terminate contract while not creating an unemployment situation
- has customers and prospective customers as a result of advertising and being known by the public as a going business
- provides goods and/or services to a public of their own choosing

Below is a table comparing employee considerations with those of an independent contractor. Check all that apply in each column.

<table>
<thead>
<tr>
<th>EMPLOYEE</th>
<th>INDEPENDENT CONTRACTOR</th>
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<tbody>
<tr>
<td>Directed and controlled by OSU</td>
<td>Independent</td>
</tr>
<tr>
<td>Does tasks in the manner OSU requests</td>
<td>Does tasks in his/her own way</td>
</tr>
<tr>
<td>Does not have a financial investment in the work they are providing for OSU</td>
<td>Assumes the costs associated with doing the work for OSU</td>
</tr>
<tr>
<td>OSU provides tools, equipment, and skills training</td>
<td>Comes to the job with all necessary tools, equipment, and skills</td>
</tr>
</tbody>
</table>
FINANCIAL CONFLICTS OF INTEREST (PACS)

Purchasing From or Contracting with OSU Employees, Relatives or Members of the Household

4. The employee, relative or household member must have a federal tax ID number
FINANCIAL CONFLICTS OF INTEREST (PaCS)

Purchasing From or Contracting with OSU Employees, Relatives or Members of the Household

5. PaCS must coordinate a competitive solicitation or conduct a sole source process in accordance with the procurement Oregon Administrative Rules (OARs).
FINANCIAL CONFLICTS OF INTEREST (PaCS)

Purchasing From or Contracting with OSU Employees, Relatives or Members of the Household

Purchases or contracts that violate Policy 101-002 are considered unauthorized.
FINANCIAL CONFLICTS OF INTEREST (PaCS)

Purchasing From or Contracting with OSU Employees, Relatives or Members of the Household

Violations involving federally funded projects are subject to Conflict of Interest Violations Pertaining to Use of Federal Funds (PaCS 104-003).

104-003: Conflict of Interest Violations Pertaining to Use of Federal Funds

In compliance with all applicable Code of Federal Regulations code of conduct requirements, OSU standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the federal fund recipient.

PROCEDURE:
In cases where it is determined that there has been a violation of PaCS Policies and Procedures pertaining to Conflicts of Interest PaCS will collaborate with the OSU Office of General Counsel, Office of Research Integrity and Office of Post Award Administration, and in some cases, the Human Resources Department in order to work with the Dean or Department head responsible for overseeing the college or department employee. In consultation with these departments, the Dean or Department head will determine an appropriate disciplinary action for the employee responsible for the violation. Pursuant to Oregon Administrative Rules applicable to violations of university policy, (and/or a collective bargaining agreement in the case of represented employees) personnel may be disciplined for cause, including warning, reprimand, or a more severe sanction for cause, up to and including termination.
GIFTS

Should I or Shouldn’t I?

$100.00 Value
Gifts

Say “No Thanks”!

- If it’s valued in excess of $50, or
- If it can be combined with previous gifts from the same vendor in the past year.
102-001: Vendor Gifts or Entertainment

An employee, relative or member of the household may not solicit or receive gifts with an aggregate value in excess of $50 during a calendar year, or receive payment for expenses for entertainment from a single source that has an interest in the agency in which the public official works. Additionally, employees may not accept a favor, gratuity or special consideration from Vendors and Contractors doing or seeking to do business with the University in order to influence a purchase or secure a Contract.
OUS Code of Ethics

OUS Employees involved in purchasing or contracting decisions should indicate their compliance with the OUS Code of Ethics.

- Access the OSU Code of Ethics online tool at:

  http://www.ous.edu/qapp/ethics/
OUS Code of Ethics

Current Business and Bidding Opportunities

Oregon University System Code of Ethics

The following Code of Ethics will apply to Oregon University System employees in relation to Chapter 580:

Division 60 – Real Property, Facility, and Campus Planning
Division 61 – OUS Procurement and Contracting Code
Division 62 – Purchasing and Contracts for Personal or Professional Services and Goods & Services
Division 63 – Capital Construction and Contracting

Employees will:

A. Give first consideration to the objectives and policies of the Board, OUS, and the Institution;
B. Strive to obtain the best value for expenditures;
C. Fairly consider prospective Contractors insofar as state or federal statutes and institutional rules and policies require;
D. Conduct business in an atmosphere of good faith;
E. Demand honesty in representations made by prospective Contractors;
F. Promote competition by encouraging the participation of Oregon businesses, emerging small and minority-owned and women-owned businesses, and Qualified Rehabilitation Facilities;
G. Comply with the applicable provisions of ORE Chapter 244 and other applicable rules and policies on conflict of interest that may be more restrictive;
H. Refrain from having financial interests incompatible with the impartial, objective, and effective performance of duties. Activities that may create a conflict of interest must be addressed in accordance with the procedures outlined in the Oregon University System’s Internal Management Directives and other applicable rules and policies;
I. Receive the written consent of the originator of proprietary ideas and designs before using them; and
J. Foster fair, ethical, and legal trade practices.

Employees that participate in the evaluation or selection of a Contractor or vendor under a Formal Procurement process will be required to sign an OUS Conflict of Interest Statement.

Below is a brief summary of some of the ethics laws that apply to Public Officials. A Public Official includes employees or volunteers of a state agency like OUS. The Oregon Government Ethics Commission has published “A Guide for Public Officials” which may be found at www.oregon.gov/opec.

IT IS THE RESPONSIBILITY OF ALL OUS EMPLOYEES TO COMPLY WITH ALL ETHIC LAWS APPLICABLE TO PUBLIC OFFICIALS.

In general, some of the more common policies applicable to OUS are related to avoidance of conflicts of interest and include the following:
OUS CODE OF ETHICS

PUBLIC OFFICIALS CANNOT:

1. Public officials may not use or attempt to use their official position or office to obtain a personal financial gain or to avoid a personal financial detriment if the opportunity would not otherwise be available but for their holding the official position or office.
2. Public officials may not use or attempt to use their official position or office to obtain a financial gain or to avoid a financial detriment for a public official's relative if the opportunity would not otherwise be available but for their holding the official position or office.
3. Public officials may not use or attempt to use their official position or office to obtain financial gain or to avoid a financial detriment for a member of the public official's household if the opportunity would not otherwise be available but for their holding the official position or office.
4. Public officials may not use or attempt to use their official position or office to obtain financial gain or to avoid a financial detriment for a business with which the public official, relative of the public official or member of the public official's household are associated if the opportunity would not otherwise be available but for their holding their official position or office.
5. A public official, a relative of a public official or a member of the public official's household may not accept gifts that exceed $50 (This restriction in ORS 244.025 is discussed later.) from a source that has a legislative or administrative interest in the public official's governmental agency.
6. Public officials and candidates may not accept the payment of expenses for entertainment nor can a source offer such paid expenses.
7. Public officials or candidates for public office, or members of their households, may not solicit or accept honoraria.
8. Public officials may not solicit or accept the offer, pledge or promise of future employment based on any understanding that a vote, official action or judgment would be influenced by the offer.
9. Current or former public officials may not use or attempt to use confidential information gained through their positions as public officials for financial gain.
10. Public officials may not represent a private client for a fee before a governing body when the public official is a member of that same body.
11. After complying with the conflict of interest provisions in ORS 244.120, public officials cannot participate in any personnel action taken by the public agency that would impact the employment of a relative or member of the public official's household. Exceptions to the provision are:
   - If acting as a reference, making a recommendation or performing ministerial acts that are normal functions of the position held.
   - If the personnel action involves a relative or member of the household who is an unpaid volunteer.
   - Members of the Oregon Legislative Assembly may employ relatives on their personal staff.
**OUS Code of Ethics**

**PUBLIC OFFICIALS CAN:**

1. Public officials may accept any part of their official compensation package from their public employer.
2. Public officials may solicit and accept honorarium, a certificate, plaque, commemorative token or other items with a value of less than $50.
3. Public officials and candidates may solicit and accept honoraria for services related to the public official's private profession, occupation, avocation or expertise.
4. Public officials may request and accept the reimbursement of expenses from their public employer for expenses incurred while on official business.
5. Public officials may accept unsolicited awards for professional achievement.
6. A public official, a relative of a public official or a member of the public official's household may accept gifts from a source when it is reasonable to believe that the source does not have a legislative or administrative interest in the public official's governmental agency.
7. When it is reasonable to believe that the source has a legislative or administrative interest in a public official's governmental agency, the public official, a relative of a public official or a member of the public official's household may accept gifts when the aggregate value in any one calendar year from a single source does not exceed $50. This prohibition also applies to candidates for a position with a governmental agency. Sources are also prohibited from offering gifts exceeding $50.
8. Public officials may accept gifts when the item or event is a specific exception from the definition of "gift" as described in ORS 244.020(5)(b). Those events or items that are excluded from the definition of a "gift" are identified in the gift section of this guide.
9. Public officials may accept contributions to their legal expense trust fund established under ORS 244.209.

Please note that although the new ethic laws may permit gifts up to $50 from a single source within a calendar year, OUS strongly encourages that employees decline such gifts as acceptance of the gift may have the public perception of being inappropriate. Source of a gift is defined in OAR 199-005-0030 as the person or organization that pays the cost of the gift and receives no reimbursement for the expense from another person or organization.

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**Kelly Kozisek**  
Click below to agree to comply with the Oregon University System Code of Ethics and Oregon ethic laws:

I agree
OUS Code of Ethics

- Read and Click on “I agree” to indicate your compliance.
- Email notification is sent to submitter

Hello, kelly.kozisek@oregonstate.edu
This email confirms you have completed the OUS Code of Ethics Compliance.

Thank you for your time.

Please do not respond to this email as it is generated by the server. For any general questions, please contact your human resource department.
Other Resources:

- Ethics Statutes Found in ORS 244: http://landru.leg.state.or.us/ors/244.html
- OUS Financial Irregularities Hotline: http://www.ous.edu/dept/intaudit/fc
QUESTIONS??

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