

**Procedures for the Implementation of the
Individual Conflict of Interest and Commitment Policy
ROCHESTER INSTITUTE OF TECHNOLOGY**

This document implements the Individual Conflict of Interest and Commitment Policy (ICIC Policy C4.0) by outlining the process and detailing the procedures by which conflicts of interest and commitment will be disclosed and managed.

1. Steps for Disclosing and Managing Individual Conflicts of Interest or Commitment

The process for disclosing and managing conflicts will follow these steps:

- 1) Upon hire, annually, and when circumstances change, regular faculty (as defined by Institute Policies and Procedures) and staff will submit the Disclosure and Prior Approval (DAPA) form. The DAPA questionnaire will be completed online. Some situations may require completion of a full disclosure form to provide additional information. The employee will print the completed DAPA and circulate for appropriate signatures. The University will determine the timing and distribution of the annual disclosure form to each regular full-time and part-time faculty and staff member.
- 2) The employee submits an amended DAPA form:
 - a. before his/her external activities, significant financial interests¹, or relationships (including consulting arrangements) change
 - b. before he/she or family members² engage in relationships, commitments, or activities (financial, fiduciary, or uncompensated) that might present or appear to present a conflict of interest or commitment with regard to his/her employment at RIT
 - c. before hiring RIT students or other RIT employees over whom he/she has an academic or supervisory relationship in an external entity in which he/she or a family member holds a significant financial interest
 - d. before directing purchasing opportunities to a company or business in which he/she or a family member holds a significant financial interest

¹ Significant financial interests is defined by federal research regulations as financial interest exceeding \$10,000 or representing more than 5% ownership regardless of dollar value. This definition will change as the federal definition changes.

² Family members (or family) are defined as parents, siblings, spouses, in-laws, domestic partners, and dependents

3) The employee's first-level supervisor (in consultation with the second-level supervisor, and the Office of Legal Affairs, when appropriate) will determine whether a real, perceived, or potential conflict exists.

- a. In the event that a real, perceived, or potential conflict does not exist, the first-level supervisor will sign and forward the DAPA form to the second-level supervisor for his/her signature and submittal to the Office of Legal Affairs for recording and archiving.
- b. In the event that a real, perceived, or potential conflict does exist, the first-level supervisor and employee will develop a course of action to manage or eliminate the conflict. This course of action will be formalized in writing as a Department Monitoring Plan and attached to the DAPA form. The Department Monitoring Plan will provide appropriate time for the employee to eliminate any existing conflict of interest or commitment.

After the Department Monitoring Plan is developed by both parties, the first-level supervisor will send it and the DAPA form to the second-level supervisor who may consult with the Office of Legal Affairs to review, approve, or recommend changes to the parties. Should the employee not agree with the proposed Department Monitoring Plan, the first-level supervisor will refer it to the second-level supervisor as an unresolved situation³. Once the plan is agreed upon and signed by all parties, the second-level supervisor will submit a final approved version of the DAPA form and Department Monitoring Plan to the Designee (the Office of Legal Affairs) for recording and archiving.

- c. The entire process prior to any referral to the ICIC Committee should take place in a timely fashion. All levels of review should be accomplished within a timely period (normally thirty (30) days) of the employee submitting the initial DAPA for approval, but this period may be shortened at the request of the employee and with agreement from his/her supervisor.
- 4) The first-level supervisor will immediately refer unresolved situations up the division's line of supervision.
- 5) The second-level supervisor will immediately refer all unresolved situations or situations needing further review to the ICIC Committee, through the Office of Legal Affairs, concurrently informing the divisional officer of the situation.

³ Unresolved situations include (but are not limited to) those in which the reviewer/supervisor has a related conflict of interest or when there is no agreement to a course of action, or the Department Monitoring Plan.

- 6) After reviewing the facts surrounding a referred situation, the ICIC Committee will make a recommendation and inform all involved parties within thirty (30) days after receiving the referral. Any involved party can appeal recommendations made by the ICIC Committee to the ranking divisional officer.

2. Conflict of Interest and Commitment Committee

The Individual Conflict of Interest and Commitment Committee (ICIC Committee) has three purposes:

- 1) to educate the regular RIT faculty and staff members how to disclose and manage real, perceived, or potential conflicts of interest and commitment;
- 2) to determine resolution for situations that have been referred to the Committee by a supervisor; and
- 3) to provide recommendations for the oversight of the implementation of the ICIC Policy.

The ICIC Committee will meet quarterly and on an *ad hoc* basis when situations referred to the ICIC Committee require more immediate attention. At its first meeting in each academic year, members of the ICIC Committee will select a chair, whose term of one year can be renewed for up to three consecutive terms. Records of the meetings (agendas, summary minutes, referral documentation, and ICIC Committee-approved resolution plans) will be retained for five years after the conflict has ended by the designated administrative office implementing the ICIC. The ICIC Committee will provide an annual summary report to the Institute's governance bodies. All communications dealing with personal disclosures will be kept confidential by members of the ICIC Committee and administration. An independent audit of the implementation and compliance of the ICIC Policy will be held regularly, presented to the ICIC Committee, and reported upon in its next annual report.

The RIT Compliance Committee has designated the Office of Legal Affairs (Designee) to provide oversight and administrative management support for the annual and *ad hoc* disclosure processes and serve as a record-keeper and liaison to departments, colleges, and as administrative staff to the ICIC Committee. The office of the Designee maintains such files for five years.

3. Roles and Responsibilities

Implementing the ICIC Policy will involve the active engagement of many individuals:

Employee: The process of determining action and disclosure begins with each employee. Annually, the employee completes Parts I, II, and III of the DAPA and meets with his/her first-level supervisor to review situations that may be in conflict with his/her employment at RIT. If there is a conflict, the employee helps to create a Department Monitoring Plan, with which the employee subsequently complies. If circumstances change during the year or if prior approval is required, such as in the case of consulting with or working for an outside entity, the employee files a revised DAPA. The employee has the right to utilize the appeals process whenever agreement with supervision cannot be achieved.

First-Level Supervisor: The first-level supervisor annually or on an *ad hoc* basis when situations arise, reviews DAPA forms and provides feedback about any conflict of interest or commitment issue or management resolution strategy. The first-level supervisor completes Parts IV and V of the DAPA and forwards the DAPA, a Department Monitoring Plan if created, and any relevant documentation to the second-level of supervision, securing concurrence and signatures from that supervisor. The first-level supervisor will refer any situations not acted upon, unresolved or in dispute up to the second-level supervisor, who can consult with the Office of Legal Affairs, and/or refer them to the ICIC Committee as warranted. The first-level supervisor also refers cases of non-compliance to the ICIC Committee after consultation with the employee and the second-level supervisor up to the dean or divisional officer.

Second-Level Supervisor or Dean/Director/Divisional Officer: After receipt of the DAPA form from the first-level supervisor, the second-level supervisor or dean/director/ divisional officer, if serving as the next-level supervisor, reviews and approves the DAPA form and forwards the fully signed DAPA form and any attached applicable documentation to the Designee for record keeping.. The second-level supervisor can refer any unresolved situations or instances of non-compliance to the ICIC Committee. Such referral should be done with the full knowledge of the dean/director/divisional officer. The second-level supervisor is responsible for ensuring that all first-level supervisors are adequately trained.

Designee: The Designee verifies receipt of the DAPA form and files the form and associated documentation. The office of the Designee will maintain such files for five years. The Designee provides all materials necessary for the ICIC Committee's deliberation and action.

ICIC Committee: For each situation that it examines, the ICIC Committee evaluates the information available and makes written recommendations regarding the appropriate course of action; these recommendations constitute a Conflict Management Plan. The ICIC Committee

communicates its recommendations to all involved parties. The ICIC Committee is responsible for ongoing education and training of all regular faculty and staff.

4. Sanctions

Failure of an employee to comply with any aspect of the Conflict of Interest and Commitment Policy, Department Monitoring Plan, or Conflict Management Plan will be reported by the first-level supervisor to the second-level supervisor, who shall promptly refer the matter to the dean/director/divisional officer for resolution; for unresolved situations in the Academic Affairs division, the matter will be referred to the Provost. All other divisions will refer unresolved situations to the appropriate divisional officer.

A finding of non-compliance will result in corrective or disciplinary actions, in addition to any legal penalty(ies) under state and federal laws that may be appropriate (e.g., oral admonishment; written reprimand; reassignment; demotion; suspension; separation; denial of eligibility to engage in research funded through the university; or other appropriate penalties).

5. Grievances

Employee grievances resulting from decisions regarding the application of the ICIC Policy and Procedures are to follow the university's grievance procedures found in *Institute Policy Manual*:

Faculty: <http://www.rit.edu/~620www/Manual/sectionE/E24.html>

Educational Development Faculty: <http://www.rit.edu/~620www/Manual/sectionE/E26.html>

Staff: <http://www.rit.edu/~620www/Manual/sectionE/E30.html>

6. Sponsor Requirements

The Conflict of Interest and Commitment Policy and these procedures provide RIT with the means of ensuring that federal requirements and obligations, including those of the Public Health Service (PHS), which includes the National Institutes of Health (NIH), and the National Science Foundation (NSF), are met.

Numerous statutes and programs demonstrate Federal interest in the promotion of interactions among government, industry, and academia.^{4 5 6 7 8} These legal authorities facilitate the movement of intellectual capital between the federal government, academic institutions, and the

⁴ Stevenson-Wydler Technology Innovation Act of 1980 (P.L. 96-840)

⁵ Patent and Trademark Amendments of 1980 (P.L. 96-517)

⁶ Economic Recovery Tax Act of 1981 (P.L. 97-34)

⁷ Federal Technology Transfer Act of 1986 (P.L. 99-5020)

⁸ Executive Order 12592

private sector. These and other inducements for collaboration have created a climate in which the stewardship of public funding for research is increasingly complex and challenging. For this reason, the PHS has promulgated policies for monitoring, addressing, and reporting conflicts of interest that may arise in the course of pursuing research funding by the PHS. Those policies are found at Title 42 of the Code of Federal Regulations, Part 50, Subpart F as found in Sections 50.601 through 50,607, available on-line at http://www.access.gpo.gov/nara/cfr/waisidx_03/42cfr50_03.html. These policies are applicable to all PHS-funded research other than Phase I SBIR/STTR grants. For grants funded by the NSF, conflict of interest policies are found in the NSF Grant Policy Manual 510, as amended by 60 FR 35820 (1995) at http://www.nsf.gov/pubs/manuals/gpm05_131/gpm05_131.pdf

Various state-funded projects also have conflict of interest requirements. The office of Sponsored Research Services can provide specific information about state-specific requirements.

7. Misconduct in Disclosures or Management of Conflicts

In the event that a conflict of interest related to a federally funded project is identified after the project is underway, the employee's first-level supervisor will notify the chair of the ICIC Committee about the conflict, who will, within sixty (60) days, report to the federal agency that a conflict of interest or commitment exists and that action is being taken to manage, reduce, or eliminate the conflict.

If NIH or the Department of Health and Human Services determines that a PHS-funded project whose purpose was to evaluate the safety or effectiveness of a drug, medical device, or treatment was designed, conducted, or reported by an investigator with a conflict of interest or commitment that was not first disclosed or managed, RIT must require the investigator(s) to disclose the conflict in each public presentation of the results of the research. Such situations will be referred to the ICIC Committee and the Provost immediately; the ICIC Committee will develop a conflict resolution plan to manage such conflicts.

8. Changes to the Procedures

Changes to these procedures will be considered and approved by the ICIC Committee and reported in the ICIC Committee's annual report and in other appropriate vehicles to ensure full knowledge by the RIT community.

9. Examples of Situations that should be included in Annual and *Ad Hoc* Disclosures

The following examples are provided to guide RIT employees when they complete their initial or annual disclosure of outside activities or when they file an amended disclosure should circumstances arise or change. These examples are provided to illustrate the range of potential, real, or perceived conflicts that should be disclosed; they are not inclusive and are not without exceptions.

When an employee can influence an RIT business decision

Serving as a board member or in an executive or managerial capacity or holding significant financial interest in a for-profit or not-for-profit entity that does business with RIT

Directing purchasing opportunities to an employee- or family-owned company or business

When an employee receives professional or personal gain from an outside activity

Using RIT resources to conduct a funded project that is sponsored by an entity in which an employee or family member holds a significant financial interest

Serving on the board of directors or on a major advisory committee of an external entity that sponsors the employee's research or provides gifts for the use of the employee or his/her department

Directing students or supervised employees toward activities from which the faculty might financially benefit

When an employee engages in an activity that is potentially competitive with RIT

Involving the employee in professional organizations, boards, panels, advisory commissions, or government, charitable, or community organizations to the point where the employee no longer effectively satisfies his/her responsibilities to RIT

Teaching courses in an employee's field at another institution of higher education

Engaging in direct competition with RIT either personally or through a firm in which the employee is consulting or has significant financial interest

Undertaking or orienting university research to an outside organization (including another academic institution, federal laboratory, business, or consulting entity) to the exclusion of or at the expense of RIT

Submitting invention disclosures or patent applications with an organization external to

RIT or being named as an inventor by an entity other than RIT

Consulting for an outside entity (see next set of examples for guidance)

When an employee works for or consults with an outside entity

Working for or consulting with an outside entity, whether remunerated or uncompensated, requires pre-approval as described in Section 1. Depending on the department, this type of outside activity may be built into one's plan of work. Generally, a supervisor's review will determine there is not a conflict of interest or commitment as long as:

RIT resources (laboratories, studios, equipment, computational facilities and/or human resources) are not used without reimbursing the university. Such reimbursement arrangements must have prior written approval before the outside activity begins.

Students are not employed by the employee on an employee consulting project, nor are any class or other educational activities involved.

Such activities do not unduly interfere with the time and energy committed by the individuals to their primary responsibilities to the Institute. The Policy for Faculty Extra Service Compensation and Summer Employment

(http://www.rit.edu/~620www/Manual/sectionE/E13_1.html) defines consulting for faculty as "... activities ... carried out on the faculty member's own time, over and above the time expected to be devoted to his or her normal workload."

Such involvement does not restrict or delay publication of research findings developed in the course of the employee's regular university activities.

Additional Notes:

There are times when a faculty or exempt staff member is asked to sign an agreement in association with a consulting arrangement. Each person needs to make sure that the consulting agreement does not prohibit competitive involvement or assert ownership of resulting work in a field of work, which is central to the employee's work at RIT. If you have questions, consult with your immediate supervisor who can seek clarification from the university if needed.

Exempt staff members do not have a defined consulting period; the appropriateness of consulting by employees will be determined by unit supervisors following the disclosure and management process outlined in Section 1.

10. Examples of Situations that Do Not Need to be Disclosed

There are situations that generally do not need to be disclosed at any time; the following list is provided as guidance for employees to determine if they are engaged in activities that do not require disclosure. Employees who have questions about disclosing situations not listed but similar in nature or function should talk with their immediate supervisor to determine if they should disclose their unique situation.

Serving as an officer, board member, or volunteer in a not-for-profit organization

Serving as an officer, board member, or volunteer in a professional, community-based, or a charitable organization

Receiving an honorarium as a one-time payment for a speaking engagement (when this is a consulting arrangement, you do need to disclose it)

Serving on a governmental panel or commission in which RIT has no interest

Acting as a referee or preparing an article for publication in a professional journal

Attending or presenting at an academic, professional, or technical conference