

BOARD OF REGENTS  
BRIEFING PAPER

**Agenda Item Title: Handbook Revision: Compensated Outside Services**

**BACKGROUND & POLICY CONTEXT OF ISSUE:**

Recent media requests to UNLV for access to the forms filed by faculty in conformance with Board policy regarding compensated outside services and conflicts of interest were turned down due to the opinion of legal counsel that this information is considered to be confidential since they are personnel documents. Board policy does not specifically address the public or confidential nature of these requests, nor does it address how this information should be reported at each institution. At the August meeting of the Research and Economic Development Council, regents requested that staff prepare a policy proposal to address these issues.

Staff surveyed a number of state systems and institutions and found a mixture of institutions that publicly disclose compensated outside services and institutions that consider this information to be a personnel document and therefore confidential. A limited number of institutions employ a partial disclosure policy where conflict of interest information is kept confidential and compensated outside activities are reported. According to the staff survey, institutions that consider conflict of interest and compensated outside services to be public records typically reference a state sunshine law requiring the public disclosure of this information.

It is true in all cases that intellectual property or proprietary information is kept confidential.

The proposed policy is a hybrid of what was found in the survey of national and regional best practices, making faculty disclosures of outside compensated services and conflicts of interest confidential employee personnel documents and providing for public reporting of this information in aggregated form.

**SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:**

Board action is requested to revise Board policy (*Handbook, Title 4, Chapter 3, Section 8, and Title 4, Chapter 11, Section 12*) to include faculty compensated outside services and conflict of interest information as part of an employee's confidential personnel documents and to require that institutions report this information in aggregated form to the Board on an annual basis. In addition, the proposal eliminates the requirement that DRI faculty provide monthly reports on consulting time consistent with other NSHE institutions.

**IMPETUS (WHY NOW?):**

Regents aAR95 -1.15 u12the requirement (H.95): e prD -17.995 -1.15 Tdot8 110.94 refLhef6crfef66.36 149.dAR

**BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:**

- It is common practice for institutions within states that do not have specific sunshine law provisions to require that this information be made public to keep this information confidential.
- Complete disclosure by faculty of possible conflicts of interest and outside compensated services will provide for better oversight and increased awareness by the administration of faculty activities and minimize faculty participation in activities that pose an unacceptable conflict of interest.
- Public disclosure of outside compensated activities and possible conflicts of interest would create a disincentive for faculty disclosure.
- Outside compensated services are often integrated into confidential intellectual property development.
- The public needs to be reassured that NSHE institutions have oversight mechanisms in place to be sure that faculty are not engaged in activities that could pose a conflict of interest or interfere with their performance as a NSHE faculty member. The annual report provides that reassurance.

**POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:**

- The public has a right to know if faculty are engaging in activities that present a conflict of interest to the mission of the institution.
- Increased public disclosure of compensated outside services and conflict of interest disclosures will increase public trust in the workings of the institutions and faculty.

**ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:**

- Formulate a proposed policy that makes the disclosure of compensated outside services and/or conflicts of interest public documents.

**COMPLIANCE WITH BOARD POLICY:**

Consistent With Current Board Policy: Title # \_\_\_\_\_ Chapter # \_\_\_\_\_ Section # \_\_\_\_\_

Amends Current Board Policy: Title 4, Chapter 3, Section 8 and Title 4, Chapter 11, Section 12

Amends Current Procedures & Guidelines Manual: Chapter # \_\_\_\_\_ Section # \_\_\_\_\_

Other: \_\_\_\_\_

Fiscal Impact: Yes \_\_\_\_\_ No \_\_\_\_\_

Explain: \_\_\_\_\_

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## **POLICY PROPOSAL**

7. When a supervisor believes that a conflict exists with obligations currently incurred or assumed by the institution regarding a faculty member's consulting activities, the supervisor shall inform the faculty member of these concerns and negotiate a mutually acceptable course of action. If a mutually acceptable course of action cannot be negotiated, the appropriate vice president or vice chancellor, as the case may be, will hear and evaluate the evidence and render a decision, or appoint a review committee if necessary. The vice president or vice chancellor may require the faculty member to cease performance of existing obligations while the faculty member remains a NSHE employee.
8. Faculty members performing compensated outside professional or scholarly service shall inform those who engage them that they are not acting in the name of the institution and that the institution

**POLICY PROPOSAL**  
**TITLE 4, CHAPTER 11, SECTION 12**  
Compensated Outside Professional Services

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 12. Compensated Outside Professional Service  
(For NSHE General Policy, See Chapter 3, Sec. 8)

1. Under conditions set forth below, limited professional services rendered by a Desert Research Institute (DRI) faculty member to organizations or individuals outside of DRI for compensation is recognized as a legitimate, and often desirable, activity for a faculty member.
2. Outside professional or scholarly service as contemplated by this section shall not adversely affect

faculty member of these concerns and negotiate a mutually acceptable course of action. If a mutually acceptable course of action cannot be negotiated, the faculty member or the supervisor may request the DRI Senate to appoint a panel of three DRI professional members to hear and evaluate the evidence an