7.11 Policy for Financial Disclosure to Avoid Conflict of Interest in Federally Funded Programs

Within the Kentucky Community and Technical College System (KCTCS), the design, conduct, and report of research will be free from real or potential influence by any related Project Director’s or Principal Investigator’s significant financial interest that constitutes a conflict of interest in research.

In accordance with federal regulations to avoid any such financial conflicts of interest, KCTCS establishes this policy that requires key personnel involved in programs funded by the National Science Foundation (NSF) and the U.S. Department of Health and Human Services (DHHS) to complete a Financial Disclosure Report Form that is on file in the KCTCS Office of Sponsored Projects and Contracts (OSPC). This policy is predicated on the expectation that Investigators should conduct their affairs so as to avoid or minimize conflicts of interest, and must respond appropriately when conflicts of interest arise. To that end, this policy informs Investigators about situations that generate conflicts of interest related to research, provides mechanisms for Investigators and KCTCS to manage those conflicts of interest that arise, and describes situations that are prohibited. Every Investigator has an obligation to become familiar with and abide by the provisions of this policy. If a situation raising questions of conflict of interest arises, an Investigator should discuss the situation with the College official. The KCTCS Vice President for Institutional Advancement is responsible for ensuring implementation of this policy and may suspend all relevant activities until the financial conflict of interest is resolved or other action deemed appropriate by the OSPC is implemented. Violation of any part of these policies may also constitute cause for disciplinary or other administrative action pursuant to the policy.

7.11.1 Definitions

- **Investigator:**
  Investigator means any project director, principal investigator, or individual who is responsible for the design, conduct, or reporting of DHHS or NSF sponsored research or proposals for such funding. This definition is not limited to those titled or budgeted as project director, principal investigator, or co-investigator on a particular proposal. The definition may also include collaborators or consultants as appropriate.

- **College Designee:**
  College Designee means the individual designated by the President at each College who is responsible for the initial solicitation and review of disclosures of Significant Financial Interests, including those of the Investigator’s family related to the Investigator’s College responsibilities. The College Designee is also responsible for forwarding all Financial Disclosure Report Forms and related documents to the KCTCS Official in OSPC.

- **KCTCS Official:**
  KCTCS Official means the individual within the KCTCS OSPC who is responsible for reviewing the Financial Conflict of Interest (FCOI) forms received from the Colleges and System Office to determine if there is a Significant Financial Interest, reporting to DHHS or
Conflict of Interest:
A conflict of interest is a situation in which persons affiliated with a project funded by federal sources may have the opportunity to influence the project’s business decisions in ways that could lead to personal gain or give improper advantage to themselves, their spouses, or their dependent children. Such conflicts could affect the design, conduct, or reporting of project results.

Completion of a Financial Disclosure Report Form:
All Investigators must complete the Financial Disclosure Report Form including the project directors, principal investigators, and any other key personnel who are responsible for the design, conduct, or reporting of a research project funded or proposed for funding by the NSF or the DHHS. Also, any sub-grantees, contractors, or collaborators must fill out a report form or provide certification from their organization that they are in compliance with federal policies regarding Investigator significant financial disclosure.

Who Must Actually Disclose Significant Financial Information on the Financial Disclosure Report Form?
All Investigators, as defined above, must disclose their significant financial interests related to their college responsibilities which would reasonably appear to be affected by the project. In addition, all Investigators must report the significant financial interests of their spouses and dependent children which would reasonably appear to be affected by the project.

Significant Financial Interest:
A Significant Financial Interest (SFI) is anything of monetary value received by an Investigator or Investigator’s family from non-KCTCS sources which would reasonably appear to be affected by the project, 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, and royalties from such rights). Salary, royalties, or other payments are “significant” when the aggregated amount for the Investigator, the Investigator’s spouse, and dependent children over the next 12 months are expected to exceed $5,000. The threshold for disclosing equity interest in a non-publicly traded entity is “any equity.” Remuneration for DHHS grants is accumulated for the past 12 months. Remuneration for NSF grants is for the future 12 months.

For Investigators, Significant Financial Interest also includes any reimbursed or sponsored travel undertaken by the Investigator and related to their institutional responsibilities. This includes travel that is paid on behalf of the Investigator as well as travel that is reimbursed, even if the exact monetary value is not readily available. It excludes travel reimbursed or sponsored by U.S. Federal, state, or local governmental agencies, U.S. institutions of higher
education, research institutes affiliated with institutions of higher education, academic teaching hospitals, and medical centers.

Significant Financial Interest does NOT include:
1. Salary, royalties, or other remuneration from KCTCS;
2. Income from the authorship of academic or scholarly works;
3. Income from seminars, lectures, or teaching engagements sponsored by or from advisory committees or review panels for U.S. Federal, state, or local governmental agencies; U.S. institutions of higher education; research institutes affiliated with institutions of higher education, academic teaching hospitals, and medical centers; or
4. Equity interests or income from investment vehicles, such as mutual funds and retirement accounts, so long as the Investigator does not directly control the investment decisions made in these vehicles.

7.11.2 Disclosure of Significant Financial Interests

All Investigators are required to disclose their outside financial interests as defined above on an annual and on an ad hoc basis as described below. The OSPC is responsible for the distribution, receipt, processing review, and retention of disclosure forms.

A. Annual Disclosures

All Investigators must disclose their Significant Financial Interests that are related to college responsibilities to OSPC on an annual basis. All forms should be submitted to OSPC by March 1 for the previous calendar year or as determined by the sub-recipient.

B. Ad Hoc Disclosures

In addition to annual disclosure, certain situations require ad hoc disclosure. All Investigators must disclose their Significant Financial Interests to OSPC within 30 days of their initial appointment or employment.

Prior to entering into DHHS or NSF sponsored projects or applications where the Investigator has a Significant Financial Interest, the Investigator must affirm the currency of the annual disclosure or submit to OSPC an ad hoc updated disclosure of their Significant Financial Interests with the outside entity. OSPC will not submit a research proposal unless the Investigator(s) have submitted such ad hoc disclosures.

In addition, all Investigators must submit to OSPC an ad hoc disclosure of any Significant Financial Interest they acquire or discover during the course of the year within thirty (30) days of discovering or acquiring the Significant Financial Interest.
C. Travel
Investigators must also disclose reimbursed or sponsored travel related to their college responsibilities, as defined above in the definition of Significant Financial Interest. Such disclosures must include, at minimum, the purpose of the trip, the identity of the sponsor/organizer, the destination, the duration, and, if known, the monetary value. OSPC will determine if additional information is needed (e.g., the monetary value if not already disclosed) to determine whether the travel constitutes a Financial Conflict of Interest with the Investigator’s research.

7.11.3 Review and Decision of the Institutional Official
If the disclosure form reveals a Significant Financial Interest, it will be reviewed promptly by OSPC for a determination of whether it constitutes a Financial Conflict of Interest. If a Financial Conflict of Interest exists, OSPC shall take action to manage the financial conflict of interest including the reduction or elimination of the conflict, as appropriate.

A Financial Conflict of Interest will exist when OSPC determines that a Significant Financial Interest could directly and significantly affect the design, conduct, or report of DHHS or NSF sponsored research. If OSPC determines that there is a Financial Conflict of Interest that can be managed, they must develop and implement a written management plan. The affected Investigator must formally agree to the proposed management strategies and sign the written management plan before any related DHHS or NSF sponsored research goes forward.

OSPC will periodically review the ongoing activity and monitor the conduct of the activity to ensure open and timely dissemination of the research results and to otherwise oversee compliance with the management plan.

7.11.4 Reporting to DHHS or NSF
OSPC will report financial conflicts of interest or non-compliance to DHHS or NSF in accordance with DHHS or NSF regulations. If the funding for the research is made available from a prime DHHS or NSF awardee, such reports shall be made to the prime awardee prior to the expenditure of any funds and within 60 days of any subsequently identified financial conflict of interest such that the prime awardee may fulfill its reporting obligations to DHHS or NSF.

7.11.5 Investigator Non-Compliance

A. Disciplinary Action
In the event of an Investigator’s failure to comply with this policy, OSPC may suspend all relevant activities or take other disciplinary action until the matter is resolved or other action deemed appropriate by OSPC is implemented.

OSPC’s decision to impose sanctions on an Investigator because of failure to comply with this policy, or failure to comply with the decision of the institutional official, will be described in a written explanation of the decision to the Investigator and notification to
the Investigator of the right to appeal the action taken or to be taken. The institution will promptly notify the DHHS or NSF Awarding Component of the action taken or to be taken. If the funding for the research is made available from a prime DHHS or NSF awardee, such notification shall be made promptly to the prime awardee for reporting to DHHS or NSF.

B. Retrospective Review
Documentation of any retrospective review shall include the project number, project title, Principal Investigator, name of Investigator with the Financial Conflict of Interest, name of the entity with which the Investigator has the Financial Conflict of Interest, reason(s) for the retrospective review, detailed methodology used for the retrospective review, and findings and conclusions of the review.

OSPC shall update any previously submitted report to DHHS or NSF, or the DHHS or NSF awardee relating to the research, specifying the actions that will be taken to manage the Financial Conflict of Interest going forward. This retrospective review will be completed in the manner and within the time frame established in DHHS or NSF regulations. If bias is found, OSPC will promptly notify the DHHS or NSF Awarding Component and submit a mitigation report in accordance with DHHS or NSF regulations. The mitigation report will identify elements documented in the retrospective review, a description of the impact of the bias on the research project, and the plan of action to eliminate or mitigate the effect of the bias.

7.11.6 Record Retention
OSPC will retain all disclosure forms, conflict management plans, and related documents for a period of three years from the date the final expenditure report is submitted to DHHS or NSF or to the prime DHHS or NSF awardee, unless any litigation, claim, financial management review, or audit is started before the expiration of the three year period; in that event, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

7.11.7 Confidentiality
To the extent permitted by law, all disclosure forms, conflict management plans, and related information will be confidential. However, OSPC may be required to make such information available to the DHHS or NSF Awarding Component, to a requestor of information concerning financial conflict of interest related to DHHS or NSF funding, or to the primary entity that made the funding available to KCTCS, if requested or required. If KCTCS is requested to provide disclosure forms, conflict management plans, and related information to an outside entity, the Investigator will be informed of this disclosure.

7.11.8 Public Accessibility
Prior to the expenditure of funds, KCTCS will publish on a publicly-accessible website or respond to any requestor within five business days of the request, information concerning any Significant Financial Interest that meets the following criteria:
1. The Significant Financial Interest was disclosed and is still held by the senior and key personnel;
2. A determination has been made that the Significant Financial Interest is related to the DHHS or NSF-funded research; and
3. A determination has been made that the Significant Financial Interest is a Financial Conflict of Interest.

The information to be made available shall be consistent with the requirements of the DHHS or NSF regulations.

7.11.9 Regulatory Authority
This policy implements the requirements of 42 CFR 50 Subpart F and 45 CFR 94; where there are substantive differences between this policy and the requirements, the requirements shall take precedence.

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