Sponsored Programs:

Financial Conflict of Interest Policy, v. 1.0
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<th><strong>Sponsored Programs: Financial Conflict of Interest Policy</strong></th>
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<td><strong>Version Number:</strong></td>
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<td><strong>Policy Approver:</strong></td>
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<td><strong>Policy Repository:</strong></td>
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<td><strong>Supporting Documentation:</strong></td>
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<td><strong>Retirement (Renewal) Date:</strong></td>
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PURPOSE

This policy outlines Northern Virginia Community College’s (NVCC, or the College) efforts toward ensuring program objectivity in accordance with applicable laws and regulations. By adhering to the standards documented in this policy, the College may provide a reasonable expectation that the design, conduct, and reporting of sponsored programs are free from bias resulting from financial conflicts of interest.

Failure to follow the practices detailed in this policy could lead to inadequate management of financial conflicts of interest, resulting in termination or misuse of funding, civil penalties, damage to the College’s reputation, and/or noncompliance with governmental regulations.

APPLICABILITY

This Financial Conflict of Interest Policy is not intended to supplant conflict of interest policies outlined in other NVCC and Virginia Community College System (VCCS) handbooks, manuals, etc., as its sole purpose is to address federal and state requirements related to sponsored programs receiving external funding.

While this policy specifically addresses requirements outlined in the Code of Federal Regulations’ Title 42, Part 50, Subpart F – Promoting Objectivity in Research and Title 45, Part 94 – Responsible Prospective Contractors toward management of financial conflicts of interest related to Public Health Service (PHS) sponsored programs, NVCC has adapted this policy to comply with Chapter 31 of the Code of Virginia – State and Local Governments Conflict of Interests Act, and applies the guidelines and principles described herein toward all of the College’s funding sources, including:

- Federal funds
- State funds
- Local funds
- Private funds
- Association funding

KEY ROLES AND RESPONSIBILITIES

Executive Vice President, Academic & Student Services

The Executive Vice President, Academic & Student Services is responsible for functional oversight of the College’s sponsored programs. In this capacity, the Executive Vice President, Academic & Student Services must verify that appropriate personnel, resources, and frameworks are in place to support the life cycle of each NVCC program while allowing for sustained growth and continued compliance.

Executive Director of Sponsored Programs

The Executive Director of Sponsored Programs is responsible for programmatic oversight of the College’s sponsored programs. By monitoring and enforcing compliance regulations, including those related to financial conflicts of interest, the Executive Director of Sponsored Programs is responsible for daily
management of the College’s ongoing programs as well as forthcoming opportunities for growth.

Office of Sponsored Programs staff and Grant Writers

The Office of Sponsored Programs staff and Grant Writers provide support in the identification, development, and execution of sponsored programs. They are responsible for understanding the requirements outlined in this policy and disseminating necessary information to applicable stakeholders to verify compliant execution of the award.

Principal Investigator / Project Director

In accordance with Title 42 of the Code of Federal Regulations, Part 50.604(b), the Principal Investigator / Project Director (PI/PD) must read, comprehend, and comply with the principles and responsibilities outlined in this policy related to the proper understanding and disclosure of significant financial interests.

POLICY OVERVIEW

Identification and Disclosure

To ensure compliance with applicable federal, state, and local regulations and verify the integrity of the College’s financial information, NVCC employees are prohibited from using any information gained while performing their job duties – including tasks related to sponsored programs – to influence or further their own personal interests. In accordance with the State and Local Governments Conflict of Interests Act, NVCC employees may not solicit or accept money or other things of value for services performed within the scope of their official duties, except the compensation, expenses, or other remuneration paid by the College, or by sponsored programs wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering funding agency.

As a result, all NVCC employees involved in a sponsored program must identify any significant financial interests that he/she and his/her spouse and dependent children have in the funding agency, or in any other entity that would be financially impacted by the work performed for the funding agency. In accordance with §50.603, Title 42 of the Code of Federal Regulations (CFR), a significant financial interest is defined using the following criteria:

- The value of the following income, when aggregated between employee, spouse, and dependent children (less the exclusions listed beneath), exceeds $5,000:
  - Any remuneration – including salary and payment for services not otherwise identified as salary (e.g. consulting fees, travel fees, honoraria, paid authorship, etc.) – received from the funding agency or related entity in the twelve months preceding the disclosure
  - Any equity interest in the funding agency or related entity – including stocks, stock options, or other ownership interests, as determined through reference to public prices or other reasonable measures of fair market value – as of the date of disclosure
  - Income related to the rights and interests of intellectual property assigned to the funding agency or related entity (e.g. patents, copyrights, etc.)
- Exclusions to the criteria above include:
  - Income from investment vehicles such as mutual funds and
retirement accounts, so long as the employee does not directly control the investment decisions made in these vehicles.

- Income from seminars / lectures / teaching engagements, or service on advisory committees / review panels, for a federal, state, or local government agency, an institution of higher education as defined at 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education.

Any financial interest meeting these requirements must be submitted to the Executive Vice President, Academic & Student Services for review prior to submission of the proposal, or immediately upon appointment if the employee was not assigned to the program at the time of submission. Further, if a significant financial interest is discovered or acquired (e.g. through purchase, marriage, or inheritance) after initial disclosure, the employee must submit the information to the Executive Vice President, Academic & Student Services within thirty days of the event causing the financial interest. If a sponsored program is scheduled to last more than one year, employees must provide an annual update to the Executive Vice President, Academic & Student Services on the status of each significant financial interest to verify continued compliance.

Upon receipt, the Executive Vice President, Academic & Student Services must review each disclosure to determine whether there is a reasonable likelihood that the significant financial interest could directly and significantly affect the design, conduct, or reporting of the sponsored program. In either event, the results and justification for the decision must be documented. If determined that there is a reasonable likelihood the significant financial interest could impact the sponsored program, a remediation plan must be developed and implemented to alleviate the financial conflict of interest. Potential solutions to limit or restrict the financial conflict are offered in §50.605(a)(1), Title 42 of the CFR:

- Public disclosure of financial conflicts of interest
- Appointment of an independent monitor capable of taking measures to protect the design, conduct, and reporting of the program against bias resulting from the financial conflict of interest
- Change of personnel or personnel responsibilities, or disqualification of personnel from participation in all or a portion of the program
- Reduction or elimination of the financial interest (e.g. sale of an equity interest)

Remediation plans must alleviate financial conflicts of interest while maintaining a level of performance that allows the College to execute the program in accordance with the terms and conditions of the award. Applicable program personnel may develop a remediation plan, but the Executive Vice President, Academic & Student Services is solely responsible for review and approval of the plan prior to implementation. In the event that the Executive Vice President, Academic & Student Services also has a financial conflict of interest with the funding agency or the same related entity, discretion is passed to the President.

Upon approval of a remediation plan, the employee must review and confirm, in writing, that he/she will follow the requirements and actions described therein. Once implemented, appropriate personnel in the Office of Sponsored Programs must take necessary efforts to monitor the employee for verification of continued compliance. This must occur, with proper documentation, until
completion of the employee's performance in the program or material reduction / elimination of the financial conflict.

If a remediation plan reduces the financial conflict to an immaterial amount below the $5,000 threshold, or eliminates the conflict entirely, no additional action is required of the College. If, however, the financial conflict is merely tracked and managed by the remediation plan, NVCC must prepare and submit applicable reports required by the funding agency, described below.

**Financial Conflict of Interest Report**

*While the reporting requirements described in this section are unique to PHS-funded programs, the College should prepare similar documentation for all financial conflicts and coordinate with each funding agency to determine the process to manage such conflicts.*

Prior to the start of each program, and before any expenditures may be charged to the program, NVCC must submit a Financial Conflict of Interest report (FCOI report) to the funding agency providing details of each financial conflict along with associated remediation plans. Consistent with NVCC's policy on internal disclosure and review, if a financial conflict is discovered or acquired after the initial FCOI report has been submitted, the College must submit an updated report to the funding agency within thirty days of the event causing the financial conflict. If a sponsored program is scheduled to last more than one year, the College must re-submit an FCOI report to the funding agency on an annual basis, providing updates on the status of each financial conflict along with progress toward remediation.

In accordance with §50.605(b)(3), Title 42 of the CFR, the following elements must be included in the FCOI report, at a minimum:

- Program number
- PI/PD of the program
- Name of the employee with the financial conflict of interest
- Name of the entity with which the employee has a financial conflict of interest
- Nature of the financial interest (e.g. equity, consulting fees, travel reimbursement, honorarium, etc.)
- Value of the financial interest (or a statement that the interest is one whose value cannot be readily determined through reference to public prices or other reasonable measures of fair market value)
- Description of how the financial interest relates to the program and the basis for the College's determination that the financial interest conflicts with performance of the award

- Key elements of the remediation plan, including:
  - Role and principal duties of the conflicted employee
  - Conditions of the remediation plan
  - Explanation of the remediation plan’s impact on safeguarding the objectivity of the program
In the event that a financial conflict was detected or disclosed after the employee had begun work on the program, NVCC must perform a retrospective review to determine whether any bias occurred in the design, conduct, or reporting prior to the establishment and implementation of the remediation plan. If bias is discovered, the College must also submit a mitigation report to the funding agency, detailing the bias that occurred along with its impact (supported by qualitative and quantitative data) and an action plan to eliminate or mitigate the effect of the bias.

Commonwealth of Virginia Statement of Economic Interests

In accordance with §2.2-3114 and §2.2-3115 of the Code of Virginia’s State and Local Governments Conflict of Interests Act, all members of the Office of Sponsored Programs and all PI/PDs must complete a Statement of Economic Interests. The form must initially be completed before an employee takes any action related to a sponsored program, and must subsequently be completed on an annual basis before January 15th of each year. The forms must be provided to the NVCC Human Resources Department for proper review, submission, and maintenance.

Training

To promote awareness toward financial conflicts of interest and incite efforts toward their identification and disclosure, NVCC must provide training to all employees assigned to the College’s sponsored programs. Training may be provided in-house by appropriate personnel in the Office of Sponsored Programs or outsourced to a third party, but must explicitly address the requirements outlined in this policy. Training must occur for all employees working under a sponsored program for each of the following scenarios:

- Prior to performance of a sponsored program, unless the employee has received the training for participation in another NVCC sponsored program within the prior year
- Upon determination that an employee already working under a sponsored program is noncompliant with the requirements set forth in this policy, irrespective of the last time training was provided
- After revisions are made to this policy in a manner that affects the requirements of NVCC employees engaged in a sponsored program

Subrecipients

If NVCC plans to use a subrecipient to assist execution of an award, the College must take necessary efforts to manage the financial conflicts of interest of the subrecipient. In accomplishing such, all subrecipients must certify in writing that they have read, comprehended, and agree to the requirements outlined in this policy. This subjects the subrecipient to the same training requirements as NVCC employees and requires (i) disclosure of significant financial interests to NVCC for review, (ii) adherence to NVCC’s remediation plans if applicable, and (iii) agreement that all financial conflicts will be reported to the funding agency by NVCC. All required actions must be completed under the conditions and timeframes specified in this policy.

Conflicts of Commitment

In addition to direct and indirect financial interests, conflicts of commitment may also compromise NVCC’s objective ability to execute an awarded program. A conflict of commitment occurs when an employee is incapable of fulfilling his/her assigned duties toward execution of an award due to other
responsibilities outside of this role, which may include other NVCC assignments or personal/business obligations outside the College. Any potential conflict of commitment must be disclosed to the Executive Director of Sponsored Programs immediately upon recognition.

The Executive Director of Sponsored Programs must review the disclosure to determine whether the conflict significantly affects the manner to which the employee may fulfill his/her responsibilities related to the program. If the objective terms and conditions of the award may not be met given the employee's additional commitments, the Executive Director of Sponsored Programs must take necessary efforts to manage the conflict by replacing the employee – subject to the terms and conditions of the award and approval from the funding agency – or creating a remediation plan that allows for compliant execution of the program. In either event, the decision must be documented in writing and signed by appropriate personnel to verify commitment to the remediation efforts.

**Policy Deviations**

It is recognized that on rare occasions there may be a need to deviate from this policy. In the event this situation occurs, the reason for deviation must be clearly documented subject to the approval of the Executive Vice President, Academic & Student Services and retained in the official record of the sponsored program.

**Record Retention**

In accordance with CAPP manual topic 20605 – Federal Grants Management, records related to fiscal activity and other supporting documentation must be retained for a period of at least three years. NVCC shall adopt the same requirements for all funding sources and all elements of the program, including records and reports related to financial conflicts of interest. The retention period generally starts at the close of the fiscal year covered by the award or at the time of final close-out, but may begin on a date unique to the award (e.g. from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report).

For pending, ongoing, or unresolved litigation, audits, or claims, documentation must be retained until completion, resolution, or negotiation of settlements in accordance with standard schedules. Destruction of records must be in accordance with policies and procedures of the Records Analysis Section of the Library of Virginia.

**DEFINITIONS**

- **Conflict of commitment** – Instances when an employee is incapable of fulfilling his/her assigned duties toward execution of an award due to other responsibilities outside of the sponsored program role, which may include other NVCC assignments or personal/business obligations outside the College

- **Financial conflict of interest** – A significant financial interest that could directly and significantly affect the design, conduct, or reporting of sponsored funding

- **FCOI report** – Report submitted to the funding agency providing details of each financial conflict of interest along with associated remediation plans
• Mitigation report – Report submitted to the funding agency along with the FCOI report when bias has occurred in the design, conduct, or reporting of a sponsored program; the report details the bias that occurred, along with its impact, and provides an action plan to eliminate or mitigate the effect of the bias

• Remediation plan – Series of tasks that are developed, implemented, and monitored to alleviate a financial conflict of interest

• Significant financial interest – Income, subject to specific provisions and restrictions included in this policy, in excess of $5,000, when aggregated, that is provided to an employee participating in a sponsored program by the funding agency or an entity that would be financially impacted by the work performed for the funding agency

POLICY REVIEW

This policy must be reviewed annually, commencing on the first anniversary of the policy’s effective date.

OTHER/REFERENCES

Code of Federal Regulations

• Title 42, Part 50, Subpart F – Promoting Objectivity in Research

• Title 45, Part 74 – Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Nonprofit Organizations, and Commercial Organizations

• Title 45, Part 94 – Responsible Prospective Contractors

Code of Virginia

• Chapter 31 – State and Local Governments Conflict of Interests Act

Circulars: Educational and Non-Profit Institutions Documents:

• OMB Circular A-102 – Grants and Cooperative Agreements With State and Local Governments

• OMB Circular A-110 – Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (relocated to 2 CFR, Part 215)

• OMB Circular A-133 – Audits of States, Local Governments, and Non-Profit Organizations

VCCS Policy Manual:

• Section 4 – Administration and Finance

• Section 11 – Sponsored Programs

Confidential – Internal Distribution Only
Commonwealth Accounting Policies and Procedures Manual, sections:

- **20605 – Federal Grants Management**

Commonwealth of Virginia Forms:

- **Statement of Economic Interests**

Library of Virginia:

- **Records Analysis Section**

Relevant NVCC Policies and Procedures:

- Sponsored Programs: Pre-Award Policy and Procedures
- Sponsored Programs: Acceptance of Award Policy and Procedures
- Grants – Financial Policy and Procedures (Post-Award)