

Notes pertaining to this policy version:

Items in yellow are clarifications from the old policy and may include some editorial changes

Items in green are new elements to the BSU COI/COC policy

Items in blue are changes, new additions, clarifications, etc. based on efforts to comply with state and federal laws

Items in track-changes red are purely editorial in nature and/or modernization of some verbiage

38. POLICY ON CONFLICT OF INTEREST AND CONFLICT OF COMMITMENT⁴⁸

38.1. Preamble

38.1.1. Ball State University is committed to providing quality teaching, research, and service. Often, this mission is served by the active participation of its employees in activities outside the University. Interaction with business, government, not-for-profit groups, professional societies, academic institutions, and private individuals or organizations contributes to the professional growth of employees and to the enrichment of University programs. University employees are therefore encouraged to share their professional knowledge and expertise through outside activities that do not interfere with their University responsibilities.

38.1.2. While such interaction is encouraged, an employee's professional or other activities outside the University may result in a real or perceived conflict of interest or conflict of commitment. These conflicts may affect the way in which the employee carries out ~~his or her University~~ responsibilities ~~to the University~~. Conflicts of interest or conflicts of commitment may also adversely impact the University's mission, and they may undermine public confidence in the University. It is therefore necessary to assess and to eliminate or manage conflicts of interest and conflicts of commitment, so that the integrity and the interests of the University, as well as those of its employees, are protected.

38.1.3. The purpose of this policy is to provide guidance for recognizing and dealing with actual or ~~potential~~~~perceived~~ conflicts of interest and conflicts of commitment. It sets forth University-wide procedures for disclosing and resolving such conflicts. Colleges, departments and other administrative units may adopt additional policies and procedures covering conflicts of interest and conflicts of commitment provided they are consistent with the provisions of this policy. All such policies and procedures must be approved by the President, ~~the Policy Coordinator~~ following review by the ~~policy coordinator~~~~Conflict of Interest Officer (CIO)~~ for consistency with this policy. In no way should this policy be interpreted or implemented so as to infringe upon matters of academic freedom, freedom of speech or political expression (~~Bill of Rights and Responsibilities for Faculty, Professional Personnel, and Staff of Ball State University, page xiv~~ ~~Bill of Rights and Responsibilities for Faculty, Professional Personnel, and Staff of Ball State University~~, Faculty and Professional Personnel Handbook).

~~38.1.4. The Appendix to this Policy lists other University policies that deal with related issues.~~

~~38.1.4. This policy does not take the place of, or substitute for, compliance with Indiana Code 35-44.1-1-4 or 42 CFR 50, Subpart F.~~

38.2. Definitions

38.2.1. Definitions Related to Conflicts of Interest:

38.2.1.1. A "~~conflict~~~~Conflict~~ of interest" exists when: ~~When~~ a University employee is in a position to influence, either directly or indirectly, University business, research or other decisions

Commented [MC1]: Policy links removed.

in matters in which the employee or a dependent of the employee has a significant financial interest.

38.2.1.2. A "significant financial interest" means anything of monetary value from a domestic or foreign entity, 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); intellectual property rights (e.g., patents, copyrights and royalties from such rights); and sponsored / reimbursed travel, or other types of support (e.g., laboratory space, living expenses, gifts). The term does not include:

- salary, royalties or other remuneration from the University;
- income from seminars, lectures or teaching engagements sponsored by public or nonprofit entities, unless the annual aggregated amount exceeds \$5,000 from a foreign entity;
- income from service on advisory committees or review panels for public or nonprofit entities, including service on professional editorial boards, dissertation committees, and research related review committees, unless the annual aggregated amount earned exceeds \$5,000 from a foreign entity;
- an equity interest that, when aggregated for the employee and the employee's dependents, meets both all of the following tests: (a) it does not exceed \$5,000, in value as determined through reference to public prices or other reasonable measures of fair market value; (b) it does not represent more than a five percent (5%) ownership interest in any single entity; and (c) it is not from a foreign entity;
- salary, royalties or other payments that, when aggregated for the employee and the employee's dependents over the next twelve months, are not reasonably expected to exceed \$10,000 if it is from a foreign entity; or
- any financial interest arising solely by means of investment in a mutual, pension, or other institutional investment fund over the management and investments of which the employee does not exercise control.

Note that this definition of "significant financial interest" differs from the definition of "pecuniary interest" under the Indiana Conflicts of Interest Law, which is discussed in Section 38.7. This definition also differs from the federal Financial Conflict of Interest (FCOI) as defined in 42 CFR 50, Subpart E, §50.603.

38.2.1.3. Perceived Conflict of Interest. When, from a reasonable person's perspective, University employees could be viewed as having a conflict of interest, even if no actual conflict exists, this policy.

38.2.2. Definitions Related to Conflicts of Commitment:

38.2.2.1. A "conflict of commitment" arises when Commitment: When a University employee's activities outside of the University, whether domestic or foreign, affect—or appear reasonably likely to affect—the manner or extent to which the employee carries out his or her University responsibilities to the University.

38.2.2.2. "University responsibilities" are the responsibilities of a University employee to perform University activities as defined by a University or administrative unit policy or contract.

Commented [MC2]: While this is listed as a clarification, it is a very important one to note. Throughout the revised policy there will be specific references to foreign entities (or similar verbiage). Disclosures involving foreign elements have always been a requirement, but it was not specifically delineated/clarified in our policies.

Commented [MC3]: In the original policy, the amount was \$10,000. At the time of its original creation this amount was mirrored off of the Federal amount for disclosures in federally funded research. It has been a long-standing practice to mirror institutional policies off of federal policies and/or amounts/elements. In 2012, the Federal amount changed to \$5,000, but the policy was never modified to mirror this change.

Commented [MC4]: Please note this is an "or" situation. As such the policy gets triggered when the amount exceeds \$5,000 or any amount is received from a foreign entity.

38.2.2.3. ~~"Activities outside of the University"~~ and ~~"outside activities"~~ ~~are activities: Activities~~ not directly related to the research, teaching and/or service mission of the University.

38.2.2.4. ~~"University activities,"~~ ~~by contrast, are activities: Activities~~ directly related to the research, teaching and service mission of the University.

Note: the line separating "University activities" and "activities outside of the University" for faculty is imprecise at best and may differ among disciplines and professions. One useful guideline for faculty is the question: is this an activity a faculty member would list on ~~his or her~~ annual faculty report ~~for which he or she would~~ and expect to receive credit during the tenure, promotion, and/or salary-setting processes?

38.2.2.5. ~~"Professional activities"~~ ~~are activities: Activities~~ related to the research, teaching and service mission of the University or to an employee's discipline, profession or craft, irrespective of whether those activities are compensated or constitute University activities.

~~38.2.2.6. **Personal Conflict of Commitment.** ~~When a reasonable person's professional activities could be viewed as having a conflict of commitment, even if not true, that exist under this policy.~~~~

38.2.3. Other Definitions:

~~38.2.3.1.A "dependent" ~~includes publications or other media for purposes of this policy.~~ ~~that were published and published in and for other media that included but not limited to print, digital, electronic, audio, video, and any other media, for which there is a personal interest, including associated with and for the employee has ownership interest in.~~ ~~This term also includes any other situation that may be governed by the State of Indiana and/or Federal law.~~~~

~~38.2.3.2 **Conflict of Interest Officer (CIO):** ~~The person responsible for managing the University's Conflict of Interest/Conflict of Commitment program. The Responsible Conduct of Research (RCR) Officer is part of the Office of Research Integrity (ORI) and will serve as the CIO. The CIO will coordinate the implementation and administration of this policy, update current policies and develop new policies as needed, maintain appropriate records, and provide expertise for the identification, disclosure and resolution or management of conflicts of interest and conflicts of commitment. In the absence of a CIO, or if the CIO is conflicted out for any reason, the Director, ORI will assume the duties and responsibilities of the CIO role.~~~~

~~38.2.3.3. **Dependent** of an employee includes: (a) the employee's spouse; (b) a child, stepchild, or adoptee of the employee who is unemancipated and less than eighteen years of age; and (c) any person, whether or not related to the employee, who receives more than one-half of his or her annual support from the employee.~~

~~38.2.3.2.38.2.3.4. ~~The "disclosure-Disclosure form" is the: The~~ Statement of Disclosure of a Conflict of Interest and/or Conflict of Commitment form.~~

~~38.2.3.3.38.2.3.5. ~~An "employee" is any~~**Employee: Any** person employed by the University, whether full- or part-time; except that the term does not include student employees other than graduate assistants.~~

~~38.2.3.4. ~~The "policy coordinator" is the Coordinator of Research Compliance, in the University's Sponsored Programs Office. The policy coordinator will coordinate the implementation and administration of this Policy, maintain appropriate records, and provide expertise for the identification, disclosure and resolution or management of conflicts of interest and conflicts of commitment.~~~~

Commented [MC5]: While this looks like a substantial change, it is actually replacing the old "policy coordinator" designation and replacing it with the more current role, along with associated responsibilities.

~~38.2.3.5-38.2.3.6.~~ ~~The "University" refers to:~~ Ball State University.

~~38.2.3.7.~~ **University action:** any activity directly or indirectly taken by Ball State University or any of its employees that helps promote the sale or purchase of self-authored materials, including materials created by an employee privately and without the use of resources provided through the University. University action includes but is not limited to University contracts or course-material assignments that result in pecuniary gains by an employee or an employee's family member.

Commented [MC6]: New definition added to help clarify elements related to the Indiana State COI statute and the overlap with BSU's COI/COC policies

38.3. Conflicts of Commitment; Principles Applicable to Outside Activities

38.3.1. Right to Engage in Activities Outside of the University. A University employee may engage in activities outside of the University, provided that those activities do not interfere with the employee's performance of ~~his or her~~ University responsibilities or otherwise constitute a conflict of interest.

~~38.3.2.~~ Use of University Resources. No employee shall use University resources in the performance of outside activities without the **expressed written** permission of ~~his or her~~ the dean ~~or their designee~~ or administrative unit head ~~or their designee~~ and without reimbursing the University, ~~when applicable.~~

~~38.3.4-38.3.2.1.~~ **If the use of resources is approved, all controlled technology is still subject to Export/Deem Export Control regulations if used in foreign/international activities and/or if foreign nationals will have access to said technology. If an employee is not sure what constitutes a controlled technology, contact the Office of Research Integrity for an assessment.**

~~38.3.2-38.3.3.~~ Outside Professional Activities of Full-time Faculty. Full-time faculty shall be permitted to spend an average of up to one day a week on professional activities other than University activities, provided that those activities do not otherwise constitute a conflict of interest. ~~Service on non-profit community advisory committees, academic advising committees, or research review committees do not count against the one day a week limit.~~

~~38.3.3-38.3.4.~~ Income ~~From~~ Outside Activities Not a Factor. An employee's compliance with this Section 38.3 or with any other University or administrative unit policy on conflicts of commitment shall not be determined on the basis of income earned from outside activities or the percentage of the employee's University compensation that such income constitutes, unless required by law.

~~38.3.4-38.3.5.~~ This Section ~~37.3~~ sets forth ~~four~~ **five** basic principles applicable to all outside activities:

~~38.3.5.1.~~ **"Up to one day per week" can be a total of eight (8)-hours distributed across multiple days per week.**

Commented [MC7]: While technically a new element, it is actually a clarification/updated interpretation of the 1-day rule.

~~38.3.4.1-38.3.5.2.~~ University employees are permitted and encouraged to engage in those activities to the extent that they do not interfere with the employees' University responsibilities.

~~38.3.4.2-38.3.5.3.~~ Employees may not use University resources in the performance of outside activities without reimbursing the University and obtaining appropriate ~~written~~ **permission by the dean or administrative unit head (or their designee).**

~~38.3.4.3-38.3.5.4.~~ Issues relating to these activities (~~ex. initial management plan options~~) should be resolved within the lowest administrative unit whenever possible.

~~38.3.4.4-38.3.5.5.~~ ~~Collegiate, departmental and other administrative units may establish their own policies regarding the use of University resources.~~ The limits on collegiate,

departmental and other administrative unit policies are: (a) they may not interfere with the University's policy permitting full-time faculty to spend an average of up to one day each week on professional, but not necessarily University, activities; and (b) they may not substitute a 20% of compensation rule for the one-day-per-week policy or add such a rule to the policy.

~~38.3.5~~38.3.6. The reference in Section 38.3.3 to "full-time" faculty reflects the conclusion that University policy need not provide that part-time faculty be permitted at least one day each week to engage in professional activities outside of the University, because University policy does not, and should not, place any limit on the time that part-time faculty spend on outside activities. Part-time faculty, however, are subject to Sections 38.3.1 and 38.3.2 and the other sections of this Policy.

38.4. **Obligation to Identify and Avoid or Manage Conflicts**

38.4.1. University employees share an obligation to conduct their professional activities in a manner consistent with the University's mission and to conduct their relationships with each other and with the University with candor and integrity. Pursuant to that obligation, employees have a responsibility to identify and, when possible, avoid conflicts of interest and conflicts of commitment. When they cannot be avoided, employees must disclose conflicts of interest and conflicts of commitment, and they must work with University officials to manage or resolve those conflicts.

~~38.4.2.~~ ~~This is a prohibited practice of employees or officials of management, work, or professional organizations to submit a direct or~~

38.5. **Procedures for Disclosing and Managing Conflicts**

38.5.1. Obligation to Disclose Conflicts of Interest and Conflicts of Commitment:

It is the responsibility of each employee to promptly and prospectively disclose a conflict of interest or a conflict of commitment involving the affairs or activities of that employee.

Examples of activities, domestic or foreign, that may, depending on the facts and circumstances, constitute such a conflict are: (i) activities of the employee which advance ~~his or her own~~the employee's financial, professional, or other interests, or those of a dependent, to the detriment of the University; (ii) ~~teaching~~holding an academic or research appointment by a full-time faculty member at another educational institution, including teaching through the Internet or through the use of other modalities; (iii) utilizing University students, employees, facilities or materials in the pursuit of outside activities from which the University will derive no benefit; ~~and~~ (iv) engaging in research or consulting activities that interfere or compromise the ~~employee's~~employee's execution of ~~his or her~~University responsibilities to the University; and (v) deriving any direct or indirect financial benefit, including royalties, from any University action.

38.5.2. Procedure for disclosing conflicts: To disclose a conflict of interest or conflict of commitment, the employee must complete and file the Ball State University disclosure form with ~~his or her~~the department head or other supervisor. If the employee is uncertain about ~~his or her~~whether a disclosure obligation exists, the employee should review the circumstances with ~~his or her~~the department head or other supervisor prior to making a formal disclosure. In such cases, the department head or other supervisor should then discuss the situation with the ~~policy coordinator~~CIO. If the department head or other supervisor and the ~~policy coordinator~~CIO agree that no conflict of interest or conflict of commitment exists, then no formal disclosure is required; however, the ~~policy coordinator~~CIO should maintain a written record of the substance of ~~his or her~~this discussion with the department head or other supervisor. In all other cases, the employee

should complete the disclosure form and submit it to ~~his or her~~the department head or other supervisor.

~~38.5.2.1. College, departmental and other administrative units may establish their own internal policies and procedures related to disclosing conflicts as long as they do not violate this policy, provide rights or procedures not normally allowed under one of the University policies, and do not impose unnecessary burdensome administrative requirements.~~

Notwithstanding the above, any University employee who is unsure whether ~~he or she has~~a disclosure obligation exists or who has other questions about the policy's application may request advice directly from the ~~policy coordinator~~CIO without being required to disclose ~~his or her name~~personal identification or identifying details concerning a potential conflict of interest or conflict of commitment. A college, department or other administrative unit ~~may also~~ may request advice from the ~~policy coordinator~~CIO about a potential conflict of interest or conflict of commitment, providing no more identifying information than is necessary for such purpose except as required by law or University policy.

38.5.3. Procedure for assessing, eliminating or managing conflicts: The department head or other supervisor, after consulting with the employee, should: (i) sign the disclosure form and, where possible, include written recommendations of conditions or restrictions which might be used to manage, reduce or eliminate the actual or perceived conflict, and (ii) forward the disclosure form to the dean or appropriate official for written endorsement and/or comment.

Examples of measures that, depending on the facts and circumstances, might be used to manage or resolve conflicts include: (i) monitoring of the outside activity by an independent reviewer; (ii) disqualifying the employee from participating in decisions that might affect the employee's financial interests; (iii) divestiture of the financial interest which creates the conflict; ~~and~~ (iv) severance of any relationships that create the actual or potential conflict; and (v) further disclosure to the appropriate state or federal governmental entity, as required by law.

The Ball State University disclosure form, along with the recommendations of how the conflict can be managed, reduced or eliminated, should then be submitted to the ~~policy coordinator~~CIO. If the ~~policy coordinator~~CIO determines that the proposed resolution or management of the conflict is consistent with applicable University policies, including additional college, department, or other administrative unit policies, if any, the ~~policy coordinator~~CIO will add ~~his or her~~a written endorsement and/or comments and forwardmake a final determination as to approval or disapproval. If additional review is needed, as determined by the CIO, or the CIO is conflicted out from reviewing the disclosure form to the, then the form will be forwarded to either the Provost and Executive Vice President for final approvalAcademic Affairs or to the President, as applicable, for final determination.

~~38.5.3.1. College, departmental and other administrative units may establish their own internal policies and procedures related to assessing, eliminating or managing conflicts as long as they do not violate this policy, provide rights or procedures not normally allowed under one of the University policies, and do not impose unnecessary burdensome administrative requirements.~~

38.5.4. Procedure for resolving disagreements: If agreement for managing or resolving the conflict is not obtained among all of the parties participating in the procedures ~~under Section V(3), the policy coordinator, the CIO~~ will convene an ad hoc advisory committee to review the facts and circumstances and recommend a solution. This committee will consist of a representative appointed by the dean or comparable official, a representative appointed by the chairperson of the Academic Freedom and Ethics Committee, and a third member appointed by the Provost and Executive Vice President for Academic Affairs who will act as chairperson. The ~~policy-coordinator~~CIO will serve as a non-voting ex officio member. The employee has the right to appear before the committee, and/or to provide additional information. Also, the committee may request additional information from the employee and others to aid it in making its findings and recommendations. The written findings and recommendations of the committee will be forwarded to the President who will make the final decision on the matter.

38.5.5. Administration and record-keeping: The ~~policy-coordinator~~CIO will administer this policy and maintain records of all filed disclosure forms and associated documents, including, but not limited to, documentation of actions taken by University administrators and committees to eliminate, reduce and/or manage conflicts of interest or conflicts of commitment. All such records will be retained for a period of three years following completion or termination of the activity that prompted the filing of the disclosure form. All employees who file disclosure forms under this policy shall update the information promptly if the circumstances that caused the filing of the disclosure change and shall notify the ~~policy-coordinator~~CIO within thirty ~~(30) calendar~~ days following the cessation of the activity.

38.5.6. Enforcement: Employees who violate this policy by either: (i) failing to make a required disclosure of a conflict of interest or a conflict of commitment, or (ii) failing to comply with conditions or restrictions imposed by the University on their outside activities or affairs for the purpose of eliminating, reducing or managing a conflict of interest or a conflict of commitment, may be subject to disciplinary action and appropriate sanctions in accordance with the provisions of the Faculty and Professional Personnel Handbook. If the violation involves a government-funded sponsored program or project, the University may be obligated under federal, state, or local law to report any corrective action taken.

~~38.5.6.1. NOTE: The Appendix and Attachments to the policy are available in the departmental offices or the Sponsored Programs Office. If the conflict of interest or conflict of commitment involves research related activities, research privileges can be restricted, temporarily suspended, or permanently suspended, in addition to any other sanction as levied by the University, or State or Federal agencies.~~

38.5.7. Use of Self-Authorial Books, Publications or Media in Courses, Classes at Ball State University

~~38.5.7.1. In instances where an employee would receive royalties or other forms of remunerations from the sale of such materials and products such as textbooks, publications, or media in classes taught at Ball State University, the employee is to disclose per the policy. If the total amount of such remunerations exceeds the Indiana statutory threshold of \$250 during any twelve-month period, the employee must also disclose per Indiana Code 35-44.1-1-4, discussed below in Section 38.7.~~

~~38.5.7.2. Each college may create and manage an internal program for setting standards for the use of self-authored materials, publications, or media in classes.~~

Commented [MC8]: While this looks like a substantial change in the BSU Policy, it is actually a clarification. All research review committees, as per associated Federal assurances and regulations, have always had this authority.

These standards must be fair and equitable for all employees. Employees serving in any position that requires these standards must receive them before their self-assessment reviews are under review. Additional provisions concerning violation of the policy provide rights to employees and normally allowed under the University policies, including disciplinary, performance management requirements, to begin the requirement to file a disclosure under Indiana's Conflict of Interest Act (Indiana Indiana Code 33-43-1-1).

38.5.7.3. The disclosure process will be managed by the CIO.

38.5.7.4. If royalties are assigned to a department or to the University and not collected by the employee, the recipient department or the University will disclose those royalties to the state should they exceed the Indiana statutory threshold of \$250 during any twelve-month period.

38.6. POLICY ON OUTSIDE SERVICES ACTIVITIES⁴⁹ AND GHOST EMPLOYMENT

- 38.6.1. **Indiana Ghost Employment Law** – The Indiana Ghost Employment law, with a limited exception which is set forth below, makes it a criminal and civil law offense for Ball State University to employ and pay an employee when that employee is not assigned duties or is assigned duties not related to the operation of the University. Both the supervisor and ~~employment~~employee may be subject to criminal and civil penalties for such violations.
- 38.6.2. **Exception to the Indiana Ghost Employment Law** – The Indiana Ghost Employment Law does permit an employee of a governmental entity, such as Ball State University, to voluntarily perform services during the normal hours of employment as long as those services do not:
- 38.6.2.1. Promote religion,
 - 38.6.2.2. Attempt to influence legislation or governmental policy, or
 - 38.6.2.3. Attempt to influence elections to public office;
- And, the services may only occur:
- 38.6.2.4. For the benefit of another governmental entity or a not-for-profit organization exempt from taxation under IRC 501(c)(3),
 - 38.6.2.5. With the approval of the employee's supervisor, and
 - 38.6.2.6. In compliance with a written policy approved by the governmental entity.
- 38.6.3. **Outside Services Activities of Employees** – Employees may be permitted to perform one or more outside services activities provided that such activities conform to this policy and do not otherwise constitute a conflict of interest or commitment. Employees may be permitted to spend up to a total of Four Hundred and Sixteen (416) ~~university~~University compensable hours in a fiscal year in performing outside services activities for a governmental entity or one or more 501(c)(3) not-for-profit organizations as determined in the sole discretion of and with the prior approval of the employee's supervisor. In the administration of this policy the University may take any measures in its sole discretion which are reasonable and necessary for the orderly and efficient operation of its business, including but not limited to altering or terminating the outside services activities that have been approved. An employee who performs the ~~university~~University approved outside services

activities during normal hours of employment as provided herein shall be considered to be performing duties related to the operation of the University.

38.6.4. Administration and Record-Keeping – It is the responsibility of the employee to keep a record of the time spent on outside services activities and it is the supervisor's responsibility to oversee the employee's record-keeping and to ensure that such records are maintained for audit purposes.

38.6.4.38.6.5. Exceptions

38.6.4.1.38.6.5.1. The President shall determine the limitation on the total time during any fiscal year and any record keeping requirements that the President and members of the President cabinet may spend on performing outside services activities.

38.6.4.2.38.6.5.2. It is anticipated that employees in professional and faculty positions will be asked to serve on particular outside boards because of their University related areas of expertise or the offices or positions they hold. "Outside Board" means the board, council, or other governing or advisory body of a business, educational, civic, professional, or social organization, whether for-profit or not-for-profit. **This term also includes service on external research review committees (for example, an external Institutional Review Board/IRB).** Service on an Outside Board is of particular value to the University and is actively encouraged because of the recognition it provides to the University, and the additional information, exposure, understanding, and insight the person will receive. This service is deemed to be service to the University and need not require the use of a person's own time. This service is considered to be a duty or duties related to the operation of the University. The conflict of interest and commitment policies still apply to any service on an Outside Board.

38.6.4.3.38.6.5.3. The service of officials elected or appointed to public office is not included in the definition of service on an Outside Board and such officials are not eligible to perform the duties of their office during University compensable time under this policy.

38.7. CONFLICT OF INTEREST DISCLOSURE REQUIREMENTS PER INDIANA CODE 35-44.1-1-4

38.7.1. Refer to Section 38.2 for additional definitions applicable to this Section, including but not limited to the definition of University action.

38.7.2. Under Indiana code 35-44.1-1-4, a public servant commits a conflict of interest, a Level 6 felony, if the public servant knowingly or intentionally has a pecuniary (financial) interest in, or derives a profit from, a contract or purchase connected with an action by the governmental entity served by the public servant. This law extends beyond University contracts or purchases to any University action that financially benefits an employee under, for example, a royalty agreement the employee may have.

38.7.2.1. Pecuniary interest: an interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of:

- the public servant; or
- a dependent of the public servant who

o is under the direct or indirect administrative control of the public servant; or

o receives a contract or purchase order that is reviewed, approved or directly or indirectly administered by the public servant.

- Pecuniary interests need not be disclosed unless they exceed the Indiana statutory threshold of \$250 as established in Indiana Code 35-44.1-1-4.

38.7.2.2. Indiana statutory threshold: a sum total of all pecuniary interests that exceeds \$250 during any twelve-month period.

38.7.2.3. All Ball State University employees are considered public servants.

38.7.3. Any Ball State employee who meets the definition for having a pecuniary interest, must file an Indiana Conflict of Interest disclosure form. A proper disclosure protects the employee from criminal liability under Indiana Code 35-44.1-1-4.

38.7.4. For disclosures involving the receipt of royalties or other forms of remunerations from the sale of self-authored products

38.7.4.1. In instances where an employee could receive royalties or other forms of remunerations from the sale of self-authored products such as textbooks, publications or other media, the employee is required to disclose per Indiana Code 35-44.1-1-4 when proceeds are anticipated to meet or to exceed the Indiana statutory threshold of \$250. The necessity to disclose extends to self-authored products created privately without the use of University resources. All royalties meeting the Indiana statutory threshold should be reported if the employee knows, or if it is reasonably likely, that those royalties could result from University action.

38.7.4.2. Each college may create and manage an internal process for setting standards for the use of self-authored materials in an employee's class and/or those used in other classes. These standards must be fair and equitable for all employees. Employees serving on any committees applying these standards must recuse themselves when their self-authored materials are under review. Collegiate procedures cannot violate this policy, provide rights or privileges not normally allowed under this or other University policies, institute unnecessarily burdensome management requirements, or negate the requirement to file a disclosure under Indiana's Conflict of Interest disclosure statute (Indiana Code 35-44.1-1-4).

38.7.4.3. If royalties are assigned to a department or to the University and not collected by the employee, the recipient college dean or applicable vice president will disclose those royalties to the state should they exceed the Indiana statutory threshold of \$250 during any twelve-month period.

38.7.4.4. The disclosure process will be managed by the CIO. Recommendations by the dean and CIO will be forwarded to the Provost and Executive Vice President for Academic Affairs. Final determination rests with the Board of Trustees. Approved disclosures will be documented and submitted to the state per Indiana Code 35-44.1-1-4.

38.8. INSTITUTIONAL CONFLICT OF INTEREST

38.8.1. An actual or perceived conflict of interest can occur at the level of the college, department and other administrative units. Such undisclosed institutional conflicts of interest may adversely impact the University's mission, and they may undermine public confidence in the University. It is therefore necessary to assess and to eliminate or manage conflicts of interest, so that the integrity and the interests of the University, as well as those of its employees, are protected.

38.8.1.1. Institutional conflict of interest: When a financial interest of the college, department, or other administrative unit, may affect or appear to affect the education, research, business transactions, or other activities of the University.

38.8.2. Obligation to Identify and Avoid or Manage Institutional Conflicts of Interest

38.8.2.1. Each college, department and administrative unit has a responsibility to identify and, when possible, avoid institutional conflicts of interest. When they cannot be avoided, the dean or applicable vice president must disclose and work with University officials to manage or resolve those conflicts.

38.8.2.2. When a perceived institutional conflict of interest could exist, deans and applicable vice presidents are encouraged to submit a disclosure.

38.8.3. Procedures for Disclosing and Managing Conflicts

38.8.3.1. Obligation to Disclose Institutional Conflicts of Interest: Each college, department and administrative unit has a duty to disclose actual or perceived institutional conflicts of interest.

- Example of what may constitute such a conflict: requirement of students of the University to purchase a textbook or other course materials where royalties exceed \$250 during any twelve-month period and are distributed to the college, department and/or school.

38.8.3.2. Procedures for Disclosing and Managing Conflicts: To disclose an institutional conflict of interest, the dean or applicable vice president must complete and file the Ball State University Conflict of Interest/Conflict of Commitment disclosure form with the CIO. If the CIO determines that no conflict of interest exists, then no formal disclosure is required; however, the CIO should maintain a written record. The dean or applicable vice president may also need to file an Indiana State Conflict of Interest disclosure form if the amount involved is at, or over, the statutory disclosure amount of \$250 per the process in 38.7.4.4.

38.8.3.3. Collegiate, departmental and other administrative units may establish their own internal policies and procedures related to disclosing institutional conflicts as long as they do not violate this policy, provide rights or privileges not normally allowed under this or other University policies, and do not institute unnecessarily burdensome submission requirements.

38.8.4. Procedure for assessing, eliminating or managing institutional conflicts of interest: The dean or applicable vice president should sign the disclosure form and, where possible, include written recommendations of conditions or restrictions which might be used to manage, reduce or eliminate

Commented [MC9]: This is a hybrid section as it represents a new COI disclosure process that many peer institutions have implemented and provides a mechanism for complying with the Indiana COI statute requirements.

the actual or perceived conflict. The disclosure form, along with the recommendations of how the conflict can be managed, reduced or eliminated, should then be submitted to the CIO.

38.8.4.1. If a potential institutional conflict of interest arises at the Provost or Vice President level, then the disclosure form is submitted directly to the CIO. The Ball State University President will then serve as the final signatory/approving authority.

38.8.5. Examples of measures that, depending on the facts and circumstances, might be used to manage or resolve conflicts include: (i) monitoring by an independent reviewer; (ii) disqualifying the dean from participating in decisions that might affect the associated financial interest; (iii) divestiture of the financial interest which creates the conflict; (iv) severance of any relationships that create the actual or potential conflict; and (v) further disclosure to the appropriate state or federal governmental entity, as required by law.

If the CIO determines that the proposed resolution or management of the conflict is consistent with applicable University policies, including additional college, department, or other administrative unit policies, if any, the CIO will add a written endorsement and/or comments and forward to the Provost and Executive Vice President for Academic Affairs for final determination.

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