

# NYUFSC

## Faculty Senators Council

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June 18, 2012

### MEMORANDUM

**TO:** Paul Horn, Senior Vice Provost for Research

**FROM:** Ted Magder  
Chairperson, Faculty Senators Council  
A/Y 2011-2012

**RE:** Proposal for Revisions to NYU Policy on Academic Conflict of Interest and Conflict of Commitment, dated May 24, 2012

Please see the attached Faculty Senators Council proposal for revisions to NYU Policy on Academic Conflict of Interest and Conflict of Commitment.

**CC:** David W. McLaughlin  
Bonnie Brier  
Marti Dunne  
Lee Taylor  
Carol Morrow  
Mark Righter  
Marie Monaco  
Mary Ann Jones

To: Senior Vice Provost for Research

From: FSC

Re: Proposal for Revisions to NYU Policy on Academic Conflict of Interest and Conflict of Commitment, dated May 24, 2012

Date: June 18, 2012

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At your request, the Faculty Senators Council offers the following comments and recommendations concerning proposed revisions to the current NYU Policy on Academic Conflict of Interest and Conflict of Commitment (July 1, 2011). Members of the FSC's summer committee undertook this review. Because we have been asked to expedite this review, we have not circulated our findings to the whole FSC for comment and approval.

### **Recommendation 1: The Faculty Advisory Committee should be a Standing Committee**

Re: Section V, C(1), *Procedures: Disclosures, Review and Responsibilities: Faculty Advisory Committees on Conflict of Interest and Conflict of Commitment*. The current document reads:

*The Provost ~~may establish~~ **has established** a Faculty Advisory Committee on Conflict of Interest and Conflict of Commitment **at Washington Square** ~~whose task is to review all referrals of identified Conflict of Interest or Conflict of Commitment that have been referred by school deans or another source in accordance with this policy~~ **when the Provost believes it would be useful to do so; a School Dean or the Senior Vice Provost for Research (the EVP for Health with respect to the Schools of Dentistry and Nursing) may ask the Provost to establish such a Committee when the person believes such a Committee would be useful.** The task of such a Committee ~~is to review~~ **may include reviewing** all referrals of identified Conflict of Interest or Conflict of Commitment that have been referred by School Deans or another source in accordance with this policy. A Committee's role is advisory to the School Deans and to the Senior Vice Provost for Research, except in the Schools of Dentistry and Nursing, where the Committee's role is advisory to the School Dean and the Executive Vice President for Health.*

We urge the administration to reconsider its decision to give the Provost sole discretion as to the formation of Faculty Advisory committees on Conflict of Interest and Conflict of

Commitment. We ask that you strike the words “may establish” and replace them with the words ‘will establish’ in the first sentence. We also recommend that the phrase “when the Provost believes it would be useful to do so,” and any similar references to Provostial discretion be removed. In short, the language of this paragraph should be changed to make clear that the Faculty Advisory Committee is a standing committee, established by the Provost’s office, but independent from that office in terms of its day-to-day operation.

### **Recommendation 2: An Annual Ledger of COI Policy Actions and Decisions and Periodic Review of the Policy**

We further recommend that the Provost’s office compile an annual ledger of the actions and decisions undertaken under the COI policy and this document be reviewed with the Faculty Advisory Committee. We would, of course, assume that such a document would respect the confidentiality and privacy rights of faculty and administrators. The document would serve as a basis for a periodic review of the policy to be undertaken by the Office of the Provost and the Faculty Advisory Committee.

### **Recommendation 3: Faculty Advisory Committee as Grievance Committee**

We also recommend that the Faculty Advisory Committee should serve as a grievance committee for faculty who face punitive administration action under the policy.

### **Recommendation 4: Outside Activities and Academic Endeavors**

The current definition of outside activities is as follows:

***Outside Activities** include any external Consulting or other business activities and external professional or academic endeavors, such as public service or pro bono work, performed outside of the faculty member’s appointment to NYU or an Investigator’s employment or association with NYU.*

We are concerned that the phrase “academic endeavors” may be misconstrued to include routine academic engagements and interactions with scholarly and professional organizations, as well as the broader public. For example, faculty present published and unpublished data as a routine process in their academic endeavors when they present their work at meetings or in seminars at other academic institutions. They also circulate and discuss their unpublished data and manuscripts to colleagues at other institutions for comment. We, therefore, recommend that the definition of the term “outside activities,” be amended so that it excludes ‘routine’ and ‘customary’ academic endeavors that take place outside of NYU.

## **Recommendation 5: Definition of Investigator**

“Investigator” is defined in detail under Policy Definitions, page 4 of the current draft. What then is meant by the phrase “through processes it [the Office of the Provost] determines” in the passage on page 15, under “Faculty and Other Investigators: Annual Disclosures,” as follows:

*On an annual basis, all full-time ~~and part-time~~ faculty, persons identified by the Office of the Provost as Investigators (**through processes it determines**) and others as requested by a School Dean or the Office of the Provost must complete and submit to their School Dean the applicable annual disclosure form then in effect,...*

We recommend that the potential for inconsistency in the designation of an Investigator be resolved by removing the parenthetical phrase -- (through processes it determines) -- from the passage above.

## **Recommendation 6: Personal Activities**

Under IV: C the phrase “other personal activities” is used in conjunction with the term “outside activities.” But, the document offers no definition of “other personal activities.” We recommend that the term “personal activities” be given a definition to include some delineation of those activities that would not be covered by the term.

We look forward to your response.

Respectfully,

Faculty Senators Council