

New York University

UNIVERSITY POLICIES

Title:	NYU Policy on Academic Conflict of Interest and Conflict of Commitment
Effective Date:	July 1, 2011
Supersedes:	<ul style="list-style-type: none">- Statement of Policy on Faculty Responsibility to the University, as approved on December 10, 1984- New York University Supplemental Guidelines for Disclosure and Review of Conflicts of Interest in Research, as endorsed on February 9, 1995
Issuing Authority:	University Provost
Responsible Officer:	Senior Vice Provost for Research

Purpose of this Policy

The purpose of this policy is to establish consistent guidelines for Academic Conflict of Interest and Conflict of Commitment.

Who Needs to Know this Policy

Faculty, administrators and staff in the NYU Academic Community

LIST OF CONTENTS

- I. General Principles
- II. Policy Definitions
- III. Conflict of Commitment
 - A. Definition
 - B. Policy and Discussion
- IV. Conflict of Interest Generally
 - A. Definition
 - B. Policy and Discussion
 - C. Types of Conflict of Interest
 - (1) Outside Activities and Other Personal Activities
 - (a) Outside Activities and Other Personal Activities Generally
 - (b) Outside Research Activities
 - (c) Outside Teaching Activities
 - (d) Requirements Related to Permissible Outside Activities, including Consulting, by NYU Faculty and Investigators
 - (2) Scholarship and Other Academic Activities
 - (3) Use of NYU Resources
 - (4) Obtaining, Using or Disclosing Confidential Information
 - (5) Inventions and Discoveries

- (6) Competing with NYU
- (7) Business Arrangements
- (8) Gifts
- (9) Compliance with University Policies
- D. Circumstances Under Which Conflicts of Interest May Be Permitted
- E. Training
- V. Additional Guidance on Conflicts of Interest in Research and Other Sponsored Projects
 - A. Principle
 - B. Policy and Discussion
 - C. Training
- VI. Procedures: Disclosures, Review and Responsibilities
 - A. Disclosures
 - (1) Faculty: Annual Disclosures
 - (2) Faculty and Other Investigators: Research and Other Sponsored Projects: Reporting Requirements
 - (3) Faculty and Other Investigators: Human Subjects Research Disclosures
 - (4) Faculty and Other Investigators: Ad Hoc Disclosures
 - B. Review Procedures
 - (1) Review of Annual and Ad Hoc Disclosures
 - (2) Review of Research and Other Sponsored Projects: Disclosures
 - C. Responsibilities
 - (1) Faculty Advisory Committees on Conflict of Interest and Conflict of Commitment
 - (2) Responsibility of the Senior Vice Provost for Research
 - (3) Responsibility of the Executive Vice President for Health
 - (4) Responsibility of the School Deans (other than the Dean of the School of Medicine)
 - (5) Responsibility of the Dean of the School of Medicine
 - D. Appeals
 - E. Enforcement
 - F. Record Retention

Exhibit A: Examples of Conflict of Interest

I. GENERAL PRINCIPLES

New York University (NYU) believes that a great university should be engaged in the world and should actively foster the transfer of knowledge gained in scholarship and research for the benefit of the public. NYU encourages its faculty to serve these goals through their primary commitment to engaging in teaching, research, including sponsored research, and collegial support activities that are consonant with our values as an institution of higher education. Insofar as is consistent with that commitment, it also is appropriate and often desirable for faculty members to participate in public and private activities beyond their NYU association by engaging in other professional and academic activities including public service or *pro bono* work and consulting activities that may benefit the participants, NYU, and the larger public. Normally it is expected that there will be no conflict between faculty commitment to NYU and other activities in which faculty members may engage, that faculty and Investigators (as defined below) will conduct their affairs so as to avoid or minimize conflicts of interest, and that should there be any potential, actual or appearance of conflicts between the individual's private interests and his or her professional obligations to NYU, the faculty

member or Investigator will promptly disclose and resolve any issues before engaging in the activities.

NYU recognizes, however, that in undertaking activities as a part of a primary commitment to NYU or in outside endeavors, a divergence can occur between the personal interests of a faculty member or Investigator and his or her professional obligations to NYU, in which case a conflict of commitment or conflict of interest can arise. The purpose of this policy is to assist the faculty in determining whether and to what extent such other activities may conflict with the faculty's primary commitment to teaching, research and collegial responsibilities; to educate faculty and Investigators about situations that generate the potential for conflicts of interest or conflicts of commitment; to clarify expectations about disclosing interests or activities that might result in conflicts; to identify means to manage, reduce or eliminate such conflicts; and to promote the best interests of students and others whose work depends on the direction of faculty members and Investigators. Every NYU faculty member and Investigator has an obligation to become familiar with and abide by the provisions of this policy. If a faculty member or Investigator has a question about whether an activity is permitted under this policy, the faculty member or Investigator should disclose the potential conflict to and seek guidance from his or her department chair or school dean, or the Office of the Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing), or the Office of the General Counsel.

For purposes of this policy: (a) references to the "Provost" means the "Provost or his or her designee; (b) references to the "Executive Vice President for Health" means "the "Executive Vice President for Health or his or her designee"; (c) references to "school dean" means the school dean or his or her designee; and (d) references to "schools" includes institutes that function as schools (such as IFA and ISAW) and references to "school deans" includes the directors of those institutes.

Individual schools may wish to supplement this policy with policies applicable to their faculty and/or Investigators. To ensure consistency with NYU policies, such school policies must be approved by the Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing).

II. Policy Definitions

An **Affected Entity** is an entity other than NYU that would reasonably appear to be affected by, or might in turn affect, the institutional responsibilities, including teaching, research, clinical, or service, of the faculty member or Investigator. It also includes entities that control, are controlled by or are under common control with the Affected Entity. In the context of Research and Other Sponsored Projects, an Affected Entity is an entity, such as the research sponsor, that would reasonably appear to be affected by, or might in turn affect, the Research and Other Sponsored Projects.

A **Conflict of Commitment**, as discussed in greater detail in Section III, occurs when a faculty member's Outside Activities compromise or may compromise his or her ability to meet the faculty member's obligations to NYU.

A **Conflict of Interest**, as discussed in greater detail in Sections IV and V, means any circumstance in which the personal, professional, financial or other interests of an individual (including the Immediate Family Members of the individual) may potentially or actually diverge from, or may be

reasonably perceived as potentially or actually diverging from, his or her professional obligations to NYU and the interests of NYU. A Conflict of Interest may exist whenever an independent observer might reasonably question whether the individual's professional actions or decisions, including the ethical and objective conduct of scholarship, research or clinical care, are determined by considerations of personal gain, financial or otherwise.

Consulting refers to any remunerated Outside Activity involving an individual's professional competence.

Employment/Management Role means serving as an employee, officer, director, trustee, manager or equivalent in a business or entity other than NYU or an NYU affiliate.

Immediate Family Members include an individual's spouse or domestic partner or person in a civil union or similar relationship, dependent children, and any other family members residing in the same household.

Investigator is defined for Research and Other Sponsored Projects as the principal investigator or program director, co-investigator, sub-investigator, and any other person who applies for or receives funds for Research and Other Sponsored Projects at NYU, or who is responsible for the design, conduct or reporting of Research and Other Sponsored Projects, or who is directly involved in treatment or evaluation of research subjects, or who is responsible for making decisions related to eligibility of research subjects or for obtaining the informed consent of research subjects. Investigator also includes persons who do any of the foregoing for subgrantees, contractors, collaborators, or consultants of NYU Research and Other Sponsored Projects. Section V.B. below outlines the circumstances under which such external Investigators will be required to comply with the pertinent portions of this Policy. Most, but not all, Investigators also are NYU faculty members.

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

Ownership Interest means holding a financial or ownership interest in a business or entity, including stock, stock option, partnership or LLP interest, or other ownership interest.

Remuneration includes salary and any payment for services not otherwise identified as salary (e.g., consulting fees, honoraria, paid authorship, travel reimbursement).

Research and Other Sponsored Projects means any internally or externally funded research, training or professional service project conducted at or under the auspices of NYU.

Royalty Income means any royalty income, licensing income or other proceeds (e.g., payments linked to product sales or other usage and milestone payments), or the written contractual right to receive future royalties, licensing income or other proceeds, directly or indirectly, under a pending or issued patent, license, copyright or other property right, and includes, for purpose of this policy, all income received by the person from NYU in accordance with NYU's intellectual property policies, including its *Statement of Policy on Patents*.

Significant Financial Interest means any financial interest consisting of one of more of the following interests of, an Investigator (which also includes those of the Investigator's Immediate Family Members) that reasonably appears to be related to the Investigator's institutional responsibilities with NYU:

- (a) With regard to any publicly traded entity, a Significant Financial Interest exists if (i) the value of any Remuneration from Outside Activities received from the entity in the twelve months preceding the disclosure (or expected to be received from the entity in the twelve months following the disclosure) and the value of any Ownership Interest in the entity as of the date of disclosure, when aggregated, exceeds \$5,000, or (ii) the Ownership Interest as of the date of disclosure exceeds five percent (5%) in any class of the entity's securities; or
- (b) With regard to any non-publicly traded entity, a Significant Financial Interest exists if (i) the value of Remuneration from Outside Activities received from the entity in the twelve months preceding the disclosure (or expected to be received from the entity in the twelve months following the disclosure), when aggregated, exceeds \$5,000, or (ii) there is any Ownership Interest in the entity; or
- (c) Intellectual property rights (e.g., patent or copyrights), royalties from such rights, and agreements to share in royalties related to such rights.

Significant Financial Interests do not include the following types of financial interests: salary, royalties, or other remuneration paid by NYU while the recipient is currently employed or otherwise appointed by NYU; income from seminars, lectures, or teaching engagements sponsored by a federal, state, or local government agency, or an institution of higher education as defined at 20 U.S.C. 1001(a); or income from service on advisory committees or review panels for a federal, state, or local government agency, or an institution of higher education as defined at 20 U.S.C. 1001(a).

III. CONFLICT OF COMMITMENT

A. Definition

A Conflict of Commitment occurs when a faculty member's Outside Activities compromise or may compromise his or her ability to meet the faculty member's obligations to NYU.

Full-time NYU faculty members owe their primary professional allegiance to NYU, and their primary commitment of time and intellectual energies should be to NYU's teaching, research, and clinical programs.

The specific responsibilities and professional activities that constitute an appropriate primary commitment to NYU will differ across schools and departments, but they should be based on a general understanding between the faculty member and his or her department chair and/or school dean. Even with such understandings in place, however, attempts of faculty to balance NYU responsibilities with Outside Activities can result in conflicts regarding allocation of time and energies.

Normally, it is expected that there will be no Conflict of Commitment between faculty commitment to NYU and other activities in which faculty members may engage. Furthermore, to the extent any questions of possible Conflict of Commitment arise, it is anticipated that the faculty member will quickly resolve the issues.

Outside Activities that do not constitute a Conflict of Commitment are permissible only if they also do not result in an impermissible Conflict of Interest (as discussed in Sections IV and V) and are in accordance with all NYU policies, including this policy and policies of the applicable school.

B. Policy and Discussion

(1) Faculty must maintain a significant physical presence on their assigned campus throughout each semester or summer period while they are compensated by NYU.

A full-time appointment conveys an obligation for a faculty member to have a significant physical presence on his or her assigned campus (e.g., New York, Abu Dhabi, or other global campus), to be accessible to students and staff, and to be available to interact with NYU colleagues on that campus throughout every semester or summer period while the faculty member is receiving compensation from NYU (i.e., holds a compensated appointment and is not on leave), unless the department chair and/or school dean has granted specific prior approval for extended or frequent absences from campus. Fulfillment of these obligations requires a primary commitment of expertise, time, and energy.

Because requirements for field research and other reasons for absence from campus differ across NYU, schools and departments may define for their faculties what qualifies as inappropriate, extended, or frequent absences.

(2) Faculty must not allow Outside Activities to detract from their primary allegiance to NYU and should be guided and governed in their consideration of an offer of ancillary employment or other Outside Activities by their primary obligation of furthering NYU's essential missions. Appointment as a full-time faculty member is inconsistent with engaging in significant Outside Activities.

Full-time faculty are permitted to spend no more than an average of one day per seven-day week (or the equivalent of an eight-hour work day) on Outside Activities during any semester or summer months in which they receive compensation from NYU.

In addition, full-time faculty members may not have executive or managerial responsibilities in a private or public entity outside of NYU.

Exceptions to the prohibitions against engaging in Outside Activities more than one day per seven-day week or having executive or managerial responsibilities in a private or public entity outside of NYU limitation are rare (and usually time limited where granted) and may be made only with the prior written approval of the school dean and Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing).

Outside Activities may detract from a faculty member's obligations to NYU. For that reason, Outside Activities must be consistent with the principles outlined in this policy and other applicable

NYU policies. In particular, when judging the appropriateness of any such Outside Activity, faculty members must consider the time commitment involved and the potential impact of such Outside Activity, together with all of the faculty member's other Outside Activities, on the fulfillment of NYU's institutional goals.

Part-time faculty members may accept outside employment as long as it does not create a Conflict of Interest or otherwise interfere with any of their obligations to NYU.

IV. CONFLICT OF INTEREST

A. Definition

A Conflict of Interest means any circumstance in which the personal, professional, financial or other interests of an individual (including Immediate Family Members of the individual), may potentially or actually diverge from, or may be reasonably perceived as potentially or actually diverging from, his or her professional obligations to NYU and the interests of NYU. A Conflict of Interest may exist whenever an independent observer might reasonably question whether the individual's professional actions or decisions, including the ethical and objective conduct of scholarship, research or clinical care, are determined by considerations of personal gain, financial or otherwise.

B. Policy and Discussion

NYU is committed to operating in a highly ethical manner and in compliance with legal and regulatory requirements. Undisclosed or inappropriate Conflicts of Interest can compromise the integrity of NYU, can reflect negatively on faculty and Investigators, and can result in financial and other sanctions on NYU. It is therefore the policy of NYU that Conflicts of Interest, including both actual and potential conflicts, be disclosed (see Section VI.A below) and permitted only in appropriate cases, after being evaluated in accordance with this policy and managed to the extent determined advisable (see Section VI.B below). Faculty or Investigators who are unclear as to whether a matter must be disclosed should err on the side of disclosure.

NYU has broad power to require disclosures of Conflicts of Interest to determine whether a Conflict of Interest exists, to manage or eliminate Conflicts of Interest, to impose appropriate sanctions on faculty and Investigators who violate this policy, to release information about Conflicts of Interest and to require faculty and Investigators to take Conflict of Interest training. By way of example, the types of management actions that NYU may take in response to a Conflict of Interest include: imposing conditions or restrictions intended to manage, reduce or eliminate such conflict; requiring disclosure of additional information; obtaining background documents; prohibiting a conflicted person from involvement, including exercising personal influence, in connection with a matter; obtaining waivers, consents and/or authorizations; and requiring relinquishment of interests and/or restructuring or terminating relationships.

C. Types of Conflict of Interest

A Conflict of Interest can arise in numerous situations. The following discusses some of the more common types, although Conflicts of Interest may arise in varying circumstances not encompassed in the categories below. This policy applies to any circumstance that may constitute a Conflict of

Interest, regardless of whether specifically described herein, and regardless of whether it is effectuated directly or indirectly. For example, while an individual's personal interests are defined to include only those of the person and his or her Immediate Family Members, there also may be situations where the interests of other persons, such as a close friend or other family member, create a Conflict of Interest.

Unless otherwise specifically stated, a faculty member or Investigator may not engage in an activity prohibited by this Section IV.C. unless the activity is expressly permitted in the faculty member's or Investigator's employment contract with NYU or such activity is approved in advance in writing by the school dean and Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing). Any such approval may be subject to a plan to manage, reduce or eliminate the Conflict of Interest.

In addition, all permissible activities must be in accordance with all NYU policies, including this policy and policies of the relevant school.

(1) Outside Activities and Other Personal Activities. Faculty must not allow Outside Activities or other personal activities to detract from their primary allegiance to NYU, as discussed in Section III relating to Conflict of Commitment. In addition, Outside Activities and other personal activities must be undertaken in compliance with all NYU policies, including this policy and policies of the relevant school. In particular, Outside Activities that involve teaching at another institution require special disclosure and review.

(a) Outside Activities and Other Personal Activities Generally

The following Outside Activities and other personal activities create a Conflict of Interest:

- (i) Engaging in competition with a service provided by NYU; and
- (ii) Competing, directly or indirectly, with NYU in the purchase or sale of any property, goods or services or in other activities in which NYU is or might reasonably and appropriately become engaged; and
- (iii) Appropriating or diverting a business or financial opportunity that the person knows or should know that NYU is pursuing or is considering pursuing or reasonably might be interested in pursuing if it were aware of the opportunity; and
- (iv) Soliciting business that the person knows or should know would or might disturb an existing professional or business relationship of NYU with any other faculty member, employee, or outside entity.

(b) Outside Research Activities

Full-time faculty members may not act as a principal investigator under the auspices of another institution. All permissible outside research also must be in accordance with all NYU policies, including this policy and policies of the relevant school. See in particular Section V below regarding Additional Guidance on Conflicts of Interest in Research and Other Sponsored Projects.

(c) Outside Teaching Activities

A teaching engagement outside of NYU competes directly with NYU's core educational mission. Accordingly, a faculty member may not accept a concurrent faculty appointment at another academic institution; provided, however, that a faculty member may accept a concurrent faculty appointment at another academic institution while on unpaid leave from NYU with the prior approval of his or her school dean.

All Outside Activities involving teaching require prior approval from the school dean, other than:

- (i) Delivering a limited number of lectures at other academic institutions, at conferences, or at public gatherings (with or without compensation);
- (ii) Teaching summer courses, at NYU or elsewhere, by faculty not receiving other summer compensation from NYU for the period in question; and
- (iii) Posting of uncompensated, non-interactive educational materials on a website.

The above exceptions are not absolute. For example, faculty should not teach courses designed for NYU at another institution or in connection with non-NYU distance learning ventures, even during a period when they are not compensated by NYU, without prior consultation and opportunity for comment by the department chair and/or school dean.

These rules with respect to outside teaching activities apply primarily to full-time faculty. Part-time faculty members are expected to disclose their teaching activities outside of NYU as part of their appointment and whenever a material change has occurred and to engage in teaching activities outside of NYU only to the extent they do not interfere with any of their teaching obligations to NYU. In addition, the provisions cited above regarding teaching courses designed for NYU outside of NYU apply to part-time faculty as well.

(d) Requirements Related to Permissible Outside Activities, including Consulting, by NYU faculty and Investigators

All faculty and Investigators who engage in Outside Activities, including Consulting, must conduct the activities in accordance with the following unless otherwise approved in accordance with this policy:

- (i) The Outside Activities must be consistent with all NYU policies, including this policy and policies of the relevant school.

(ii) The Outside Activities of full-time faculty may not constitute a Conflict of Commitment as discussed in Section III above.

(iii) Faculty and Investigators must disclose to NYU all Outside Activities, including the entity(ies) for which activities are to be performed and the nature, scope, duration and compensation for such activities, in accordance with NYU policies, including this policy and policies of the relevant school. Such Outside Activities must not constitute a Conflict of Interest without prior disclosure, review, approval and adherence to any required management plan.

(iv) Prior to beginning any Consulting, faculty and Investigators must inform the party for whom the Consulting is to be performed of NYU's intellectual property policies, including its Statement of Policy on Patents and this policy, and the obligations of the faculty member and/or Investigator under such policies. It is strongly encouraged that faculty and Investigators obtain recognition in any Consulting agreement of NYU's rights and priorities under such policies to the extent they apply.

(v) Faculty and Investigators may not use NYU resources, including facilities, personnel, or equipment, except in a purely incidental way, as part of or in connection with their Outside Activities. Use of NYU funding, NYU intellectual property and NYU confidential information is never incidental and may not be used as part of or in connection with Outside Activities. In particular, faculty and Investigators may not use NYU students, staff, or postdoctoral scholars in any tasks that relate to the Outside Activities of the faculty member and/or Investigator or for potential or real financial gain.

(vi) Faculty and Investigators may not use the NYU name, or any NYU mark, symbol or logo, as part of or in connection with Outside Activities, other than reference to their NYU affiliation for identification purposes.

(vii) Faculty and Investigators must make it clear that their Outside Activities are personal, NYU has no involvement in or liability for such activities and NYU is not endorsing such activities.

(viii) Faculty and Investigators may not grant any outside person or entity access to NYU resources, including research results and materials or products generated from NYU teaching or research activities.

(ix) Faculty and Investigators may not make or offer inappropriate inducements or take actions that are illegal or unethical in connection with their Outside Activities.

(x) Faculty and Investigators may not either (i) receive funds for the faculty member's and/or Investigator's NYU research from a party for whom compensated Outside Activities are being performed or (ii) engage in compensated Outside Activities for a party from whom funds are to be received for the faculty member's

or Investigator's NYU research, without prior disclosure, review, approval and adherence to any required management plan.

(xi) NYU has no responsibility or liability for the Outside Activities of faculty or Investigators. Faculty and Investigators are encouraged to consider all risks before undertaking Outside Activities. NYU insurance coverages do not protect faculty and Investigators engaged in Outside Activities.

(2) Scholarship and Other Academic Activities. The heart of a university is its commitment to academic values and the failure of faculty and Investigators to carry on scholarship and other academic activities in an ethical and appropriate manner can damage NYU's reputation and otherwise harm the NYU community, creating a Conflict of Interest. Consistent with NYU's mission and its prevailing academic ethos, faculty and Investigators are expected to foster an atmosphere of academic freedom by promoting the open and timely exchange of results of scholarly activities, ensuring that their advising of students and postdoctoral scholars is independent of personal commercial interests, and informing students and colleagues about outside obligations that might influence the free exchange of scholarly information between them and the faculty member or Investigator.

Faculty and Investigators must ensure that:

- (a) The results of research or scholarship undertaken at NYU are disseminated on an open and timely basis to the broader scholarly community and public; and
- (b) The academic activities of students and postdoctoral scholars are free from the outside personal interests of the faculty member or Investigator; and
- (c) The work of students, postdoctoral scholars, staff, and faculty collaborators is not inappropriately used in the course of a faculty member's or Investigator's outside obligations. To this end, faculty members and Investigators should be open about their involvements with and obligations to outside third parties who could benefit from the work or ideas of their students, staff, and colleagues. Similarly, students, staff and faculty collaborators should have access to information about the sources of funds that support their research and their contributions to such research should be properly credited; and
- (d) They have made a sufficient contribution under pertinent professional academic standards to warrant the authorship credit to be given them; and they must not permit their identification as an author of a publication that they know or should know was written by sources who are not properly identified and credited (i.e., ghostwritten).

For further information see the NYU Guidelines for Sponsored Research (Faculty Handbook), <http://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/faculty-handbook.html>, page 90 (PDF – page 97).

(3) Use of NYU Resources. NYU facilities, personnel, and other resources are provided to further NYU's educational, administrative, research, clinical, and other goals. These resources may not be used for personal use, including Outside Activities, except in a purely incidental manner. Personal

use may not adversely affect work performance or add more than a negligible amount to the cost of these resources for NYU. All such incidental or other personal use must be in accordance with this policy and all NYU policies, including this policy and policies of the relevant school. The personal use, including in Outside Activities, of NYU funding or NYU intellectual property is never permitted and is never considered purely incidental. NYU does not ensure the security or privacy of any faculty work arising from personal use of NYU resources. Improper use of NYU resources creates a Conflict of Interest.

(4) Obtaining, Using or Disclosing Confidential Information. Obtaining, using or disclosing NYU confidential information for direct or indirect personal interest, profit or advantage or, for a purpose that may be detrimental to NYU creates a Conflict of Interest. Use of NYU confidential information for a purpose that is not authorized by NYU or disclosure of NYU confidential information to a person who or entity that is not authorized by NYU to receive it creates a Conflict of Interest. Confidential information includes, but is not limited to, medical, personnel, security, academic, background check, conflict of interest or identifiable biometric records and other information of individuals; computer system passwords and security codes, proprietary knowledge about anticipated material requirements or price actions; proprietary knowledge of information about forthcoming programs or selection of contractors or subcontractors in advance of official announcements; unpublished grant proposals, research data, or manuscripts and correspondence; non-public financial, procurement, health-safety, audit, insurance and claims information; and internal investigation, pre-litigation and non-public litigation and administrative agency charge, audit and inquiry information.

(5) Inventions and Discoveries. Inventions and discoveries by a faculty member, Investigator, and others subject to NYU's *Statement of Policy on Patents*, <http://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/faculty-handbook.html>, page 100 (PDF – page 107), must be disclosed and assigned on a timely basis in accordance with the terms of that Statement of Policy as in effect from time to time. Failure to do so creates a Conflict of Interest.

(6) Competing with NYU. Engaging in activities that are in direct competition with NYU creates a Conflict of Interest. Holding, directly or indirectly, an ownership or other financial interest (such as a royalty interest) or having an employment, management or fiduciary (such as serving as an officer or director) role in an enterprise that is a competitor of NYU or promoting the interests of such enterprise at NYU creates a Conflict of Interest. Holding, directly or indirectly, an ownership interest will not be deemed to be a Conflict of Interest where the interest in an enterprise is: publicly-traded securities held through a diversified fund (such as a broad-based mutual fund); publicly-traded securities valued at \$5,000; and/or publicly-traded securities in an enterprise with which NYU conducts business on a basis similar to the general public (e.g., a utility, bank, office supply company) provided that the faculty member or Investigator has no role and exercises no personal influence with respect to NYU's potential selection or continued use of such enterprise (or its products or services).

(7) Business Arrangements. Participating, directly or indirectly, in the selection (including attempting to influence the selection as through a recommendation), award or administration (including attempting to influence the purchase of products or services as through a recommendation) of any business arrangement involving NYU and an enterprise in which the faculty member or Investigator holds, directly or indirectly, an ownership or other financial interest

(such as a royalty interest) or has an employment, management or fiduciary (such as serving as an officer or director) role creates a Conflict of Interest.

(8) Gifts. Accepting gifts (including entertainment), a loan (other than an arm's length loan made in the ordinary course of business from a banking or other financial institution) or a favor of more than nominal value from any person or entity with a business relationship, or seeking to have a business relationship with, NYU is a Conflict of Interest if the offer or acceptance of the gift could reasonably be viewed as intended to influence NYU to act favorably toward the person or entity. Acceptance of such gifts creates a Conflict of Interest.

(9) Compliance with University Policies. Failure to strictly comply with NYU policies and other rules, regulations or standards of conduct creates a Conflict of Interest.

Examples of specific Conflicts of Interest intended to illustrate certain of the principles described in this Section IV.C. are set forth in Exhibit A to this policy.

D. Circumstances Under Which Conflicts of Interest May Be Permitted

It is recognized that certain Conflicts of Interest may arise in situations in which a faculty member or Investigator does not know or have reason to know of the conflict. In such situations the person should disclose the Conflict of Interest immediately upon learning of it. While Conflicts of Interest must be disclosed, they normally will be permitted where they are a minor, but an inseparable, part of a larger business relationship, or as a practical matter cannot realistically be eliminated, provided they are highly unlikely to pose a significant Conflict of Interest and the faculty member or Investigator is not in a position to influence NYU in its decision-making regarding the transaction or to benefit from NYU's transaction with the outside entity.

In considering whether a Conflict of Interest arising from a faculty member's or Investigator's Outside Activities may be permitted, favorable factors include:

- (a) The faculty member or Investigator fully disclosing in advance to NYU the material facts of the proposed Outside Activity, including the specific financial interest(s) and/or role(s) the faculty member or Investigator proposes to undertake;
- (b) The faculty member or Investigator refraining from voting or exercising any personal influence whatsoever in connection with the selection, award or administration of any matter that gives rise to a Conflict of Interest;
- (c) The faculty member or Investigator otherwise avoiding participating in any dealings between NYU and the person, entity or company with whom or in which the faculty member or Investigator (or Immediate Family Member) has a financial interest or other role, including with respect to the potential selection of such person, entity or company as a vendor or business partner of NYU;
- (d) The Outside Activities are conducted on an arm's length basis at fair market value; and

- (e) NYU determines in accordance with Section VI of this policy that the Conflict of Interest is not inconsistent with the best interests of NYU.

Where a Conflict of Interest arising from a faculty member's or Investigator's Outside Activities is permitted, the permission may be conditioned on adherence to a specified management plan.

E. Training

All NYU faculty members and Investigators need to be familiar with this policy and may be required by their school dean or the Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing) to complete training regarding this policy and their responsibilities regarding activities that may constitute a Conflict of Interest.

V. ADDITIONAL GUIDANCE ON CONFLICTS OF INTEREST IN RESEARCH AND OTHER SPONSORED PROJECTS

A. Principle

NYU has a strong commitment to the principle of open and objective inquiry in the conduct of its research. Investigators participating in research at NYU have a primary obligation to conduct the research free of a Conflicts of Interest so as to avoid the tainting or the perception of tainting of the research. This Section V supplements the more general provisions regarding Conflict of Interest in Section IV, which also apply to Research and Other Sponsored Projects.

B. Policy and Discussion

As with all Conflicts of Interest, NYU has broad power to require disclosures of Conflicts of Interest arising out of Research and Other Sponsored Projects to determine whether a Conflict of Interest exists, to manage or eliminate Conflicts of Interest, to impose appropriate sanctions on faculty and Investigators who violate this policy, to release information about Conflicts of Interest and to require faculty and Investigators to take Conflict of Interest training. By way of example, the types of management actions that NYU may take in response to a Conflict of Interest arising out of a Research and Other Sponsored Projects include: imposing conditions or restrictions intended to manage, reduce or eliminate such conflict; requiring disclosure of additional information; obtaining background documents; prohibiting a conflicted person from involvement, including exercising personal influence, in connection with a matter; revising the design of Research and Other Sponsored Projects to address potential bias from the Conflict of Interest; obtaining waivers, consents and/or authorizations; appointing an oversight body to monitor and review ongoing Research and Other Sponsored Projects or other activities; and requiring relinquishment of interests and/or restructuring or terminating relationships. In addition, NYU can eliminate the Conflict of Interest, as for example by prohibiting an Investigator from participating in Research and Other Sponsored Projects or by requiring divestment of an Ownership Interest giving rise to a Conflict of Interest as a condition of participating in an activity.

While every Conflict of Interest is subject to prior disclosure, review, approval and adherence to any required management plan, in the case of Research and Other Sponsored Projects, there are very specific procedures with respect to the advance disclosure and review of Conflicts of Interests by all

Investigators as set forth in Section VI. In each case, a determination will be made as to whether the proposed activity can proceed as contemplated, whether it can proceed only if a management plan is adhered to, or whether the Conflict of Interest is so significant that it must be eliminated.

Human Subjects Research is the most sensitive area of research. Accordingly, the disclosures and review in this area, addressed in Section VI, include additional requirements and determinations as to whether to proceed and under what conditions are held to an even higher standard.

This policy applies to all research conducted at or under the auspices of NYU, whether or not funded by a federal sponsoring agency or another external funding source. Research and Other Sponsored Projects that are sponsored often are subject to additional conflict rules, including those imposed by a federal sponsoring agency and those imposed contractually by private funding sources and collaborators. It is the policy of NYU to comply with all such requirements. This policy is believed to be in compliance with the applicable federal sponsoring agency requirements; to the extent there is any issue about whether this policy wholly complies with a sponsoring agency or other sponsor requirement, it is to be interpreted to assure compliance. Additionally, Research and Other Sponsored Projects must be conducted in accordance with all NYU policies, including this policy and policies of the relevant school. Each Investigator is responsible for assuring his or her compliance with the requirements applicable to the Investigator's specific Research and Other Sponsored Projects.

In instances where NYU carries out funded Research and Other Sponsored Projects through subgrantees, subcontractors, or collaborators, NYU will, to the extent it is required to under the grant or contract terms with the funder, either require such external Investigators to comply with the pertinent portions of this policy or require the entities for which the Investigators work to provide assurances that such entities have a written conflicts policy in effect that applies to their Investigators and complies with applicable federal sponsoring agency requirements.

Examples of specific Conflicts of Interest intended to illustrate certain of the principles described in this Section V.B. are set forth in Exhibit A to this policy.

C. Training

All NYU faculty members and Investigators involved in Research and Other Sponsored Projects may be required by the funding source to periodically complete an appropriate training program prior to engaging in Research and Other Sponsored Projects.

VI. PROCEDURES: DISCLOSURES, REVIEW AND RESPONSIBILITIES

The responsibility in the first instance for determining whether an activity presents a Conflict of Commitment or Conflict of Interest rests with the faculty member or Investigator concerned. If there is any reasonable doubt as to whether an activity may constitute such a conflict, or there is a question about whether an activity is permitted under this policy, the faculty member or Investigator should disclose the potential conflict to and seek guidance from his or her department chair or school dean, or the office of the Provost (the executive Vice President for Health in the case of the schools of Medicine, Dentistry, and Nursing) or the Office of the General Counsel.

A. Disclosures

(1) Faculty: Annual Disclosures

On an annual basis, all full-time and part-time faculty must complete and submit to their school dean the applicable annual disclosure form then in effect, which form will refer faculty to this policy and any related policies of the applicable school (including the availability of this policy and any applicable school policy on the NYU website). Such annual disclosure form requires, among other matters: (a) certification of compliance with this policy and related policies of the applicable school; (b) disclosure of information about the faculty member's (and his or her Immediate Family Members) Outside Activities and other personal, professional, financial or other interests that may reasonably be perceived as giving rise to a Conflict of Interest as described in Sections IV and V of this policy; (c) disclosure of information about his or her Outside Activities as pertinent to a potential Conflict of Commitment as described in Section III of this policy; and (d) all of the following interests held by the faculty member and his or her Immediate Family Members in the aggregate in any Affected Entity: (i) each Employment/Management Role; (ii) all Ownership Interests (other than an interest in a publicly-traded corporation that does not exceed either (A) \$5,000 or (B) a five percent interest in any class of the corporation's securities); (iii) all Remuneration from an Outside Activity greater than \$5,000 in the past 12 months or expected to be greater than \$5,000 in the upcoming 12 months; and (iv) all Royalty Income greater than \$5,000 in the past 12 months or expected to be greater than \$5,000 in the upcoming 12 months.

Such disclosures will be reviewed according to procedures described in Section VI.B below.

(2) Faculty and Other Investigators: Research and Other Sponsored Projects: Reporting Requirements

Each time a faculty member or other Investigator is planning to participate in proposed Research and Other Sponsored Projects, the faculty member and each other Investigator involved with the proposed Research and Other Sponsored Projects must submit the applicable investigator financial interest disclosure form in effect, which form will refer the faculty member or other Investigator to this policy (including the availability of this policy on the NYU website). Such Investigator financial interest disclosure form requires, among other matters, disclosure of the faculty member's or other Investigator's and his or her Immediate Family Members' (i) Significant Financial Interests (specifying if any such Significant Financial Interest is in an Affected Entity relative to the Research and Other Sponsored Projects); (ii) Employment/Management Roles held in any Affected Entity

relative to the Research and Other Sponsored Projects; and (iii) any rights held in intellectual property covering products or processes being used in the Research and Other Sponsored Projects (including any right to royalty income from intellectual property assigned to NYU under NYU's intellectual property policies, including its Statement of Policy on Patents). Such disclosure must be made prior to the submission of an application for the Research and Other Sponsored Projects to the sponsor, updated annually for the duration of the Research and Other Sponsored Projects, and updated within thirty days of acquiring any such new activity or interest (e.g., through gift, marriage or inheritance). The Investigator financial interest disclosure form and annual update form must be submitted even if there is no interest, position or rights to disclose.

Such disclosures will be reviewed according to procedures described in Section VI.B below.

(3) Faculty and Other Investigators: Human Subjects Research Disclosures

Studies involving human subjects and requiring review by an institutional review board (IRB) raise the most sensitive issues. Studies involving pre-clinical research (i.e., studies reasonably anticipated to contribute to an FDA application for research involving human subjects within the next 12 months) also raise sensitive issues. For that reason, the scientific objectivity of an Investigator may be reasonably questioned in those cases where the Investigator has *any* personal interests which could be affected by the research -- no matter what positions or dollar amounts are involved.

Accordingly, the disclosures required for studies involving human subjects are the same as those required with Research and Other Sponsored Projects in Paragraph "2" above, except that the definition of Significant Interest will not include any minimum dollar limitations.

All disclosures will be reviewed according to procedures described in Section VI.B below.

(4) Faculty and Other Investigators: Ad Hoc Disclosures

Faculty members and Investigators have a duty to disclose to the school dean on an ad hoc basis current, proposed or pending situations that may raise questions of Conflict of Commitment or Conflict of Interest, in advance of the conflict arising if possible, and otherwise as soon as such situations become known to the faculty member or Investigator. Each time a faculty member or Investigator proposes to engage in a transaction (e.g., gift, technology licensing arrangement, purchase, etc.) with a person or entity as to which the faculty member or Investigator would have a Conflict of Interest as described in Section IV of this policy, the faculty member or Investigator must disclose the matter to the school dean on an ad hoc basis.

NYU may require a faculty member or Investigator to complete an ad hoc conflict disclosure form at any time.

Such disclosures will be reviewed according to procedures described in Section VI.B below.

B. Review Procedures

(1) Review of Annual and Ad Hoc Disclosures

Annual disclosures and ad-hoc disclosures will be reviewed by the school dean in accordance with the procedures approved for the school by the Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing). Such procedures may provide that the school dean forward any disclosure that presents a potential Conflict of Commitment or Conflict of Interest to a Faculty Advisory Committee on Conflict of Interest and Conflict of Commitment, as described in Section V.C. below (a “Committee”). For any matter referred to it, the Committee will make a recommendation to the school dean and/or the Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing) regarding the existence and extent of a Conflict of Interest and, as appropriate, a proposed resolution to manage or eliminate any Conflict. See Section IV.B. above regarding the management of Conflicts of Interest.

(2) Review of Research and Other Sponsored Projects: Disclosures

Disclosures associated with Research and Other Sponsored Projects will be reviewed by the school dean in accordance with the procedures approved for the school by the Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing). The school dean is responsible for identifying any Conflict of Interest (including any Significant Financial Interest).

Whenever the school dean identifies any Conflict of Interest (including any Significant Financial Interest) in a Research and Other Sponsored Projects, the school dean will refer such matter to the appropriate Committee, unless the procedures approved for the school do not require such referral or the Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing) agrees such referral is unnecessary. In the review, the school dean and/or the appropriate Committee will determine whether and the extent to which a Conflict of Interest exists and, as appropriate, a proposed resolution to manage or eliminate any Conflict. See Section V above regarding the management of Conflicts of Interest.

Where a Conflict of Interest is present but was not disclosed or reviewed in a timely manner, the school dean and/or the appropriate Committee will implement, on at least an interim basis, a conflicts mitigation plan that will include a review and determination as to whether the Research and Other Sponsored Projects, or any portion thereof, conducted prior to the identification and management of the Conflict of Interest was biased in the design, conduct, or reporting of such Research and Other Sponsored Projects.

For all matters referred to it, the appropriate Committee will convey its decision to the school dean, who will either accept it or refer it to the Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing) for resolution.

The results of the review and any resulting conflict management and/or mitigation plan will be communicated to the principal investigator and to the Investigator(s) with the identified conflict (if different), each of whom will need to agree to the plan(s) before the Research and Other Sponsored Projects may proceed.

For Conflict of Interest cases involving human subjects research, the approved conflict management and/or mitigation plan also will be communicated to the relevant IRB for further action. If the conflict management and/or mitigation plan permits the research to proceed with the conflicted

Investigator, such plan will provide, at a minimum, for appropriate disclosure to human subjects involved in the research study, if any, and to the public in presentations and publications of resulting research data.

Commencement of a Research and Other Sponsored Projects (including any enrollment of research subjects) or expenditure of any awarded funds for the Research and Other Sponsored Projects may not occur until after completion of the review and evaluation of an Investigator's disclosure associated with the Research and Other Sponsored Projects, including the implementation of any necessary or appropriate management and/or mitigation plan and any reporting required to or by the sponsor prior to commencement relating to an Investigator's disclosure. In the case of an ongoing Research and Other Sponsored Project, when a new Investigator discloses a Significant Financial Interest or an existing Investigator discloses a new Significant Financial Interest, the disclosure will be renewed in accordance with the procedures set forth in this Section VI.B(2), with the review and evaluation completed within sixty days, including implementation on an at least an interim basis of any necessary or appropriate management and/or mitigation plan, and with timely compliance with reporting required to or by the sponsor.

C. Responsibilities

(1) Faculty Advisory Committees on Conflict of Interest and Conflict of Commitment

The Provost 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. The 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.

The Dean of the School of Medicine has established a Faculty Advisory Research Conflict of Interest Committee at the School of Medicine whose task is to review all referrals of disclosures of identified Conflicts of Interest arising out of Research and Other Sponsored Projects conducted at or under the auspices of the School of Medicine or arising out of research studies requiring review by the School of Medicine's IRB under NYU policies. The Committee's role is advisory to the Dean of the School of Medicine and Executive Vice President for Health.

In addition to the Committees contemplated by this policy, each school dean may establish separate conflict of interest committee(s), which may be faculty advisory committees, to review other conflicts under the policies of the relevant school.

(2) Responsibility of the Senior Vice Provost for Research

The Provost has designated the Senior Vice Provost for Research as the Provost's representative for managing this policy and its implementation at schools other than the schools of Medicine, Dentistry and Nursing. The Senior Vice Provost for Research will resolve any disagreements between a school dean and the appropriate Committee.

(3) Responsibility of the Executive Vice President for Health

The Provost has designated the Executive Vice President for Health as the representative for managing this policy and its implementation for the schools of Medicine, Dentistry and Nursing. The Executive Vice President for Health will resolve any disagreements between a school dean and the appropriate Committee.

(4) Responsibility of the School Deans (other than the Dean of the School of Medicine)

For the schools at Washington Square, including the schools of Dentistry and Nursing, the school deans are responsible for establishing procedures to implement this policy, to provide any mandatory training, and to ensure timely collection and review of their faculty's annual and ad hoc disclosures and their faculty's and their Investigators' Research and Other Sponsored Projects disclosures (including all research studies involving human subjects). School deans will refer disclosures of potential or actual conflicts in accordance with the procedures of the school approved by the Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing) and work, if necessary, with an applicable Committee or the Senior Vice Provost for Research (Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing), to ensure that all conflicts are eliminated or managed.

Each school dean will provide a report annually to the Provost (and also to the Executive Vice President for Health in the case of the schools of Dentistry and Nursing) on their school's compliance with this policy. Such report will include the number of annual disclosures required to be filed by the faculty of that school, the number received and reviewed, and the outcome of the reviews; the number of disclosures reporting Conflicts of Interest and Conflicts of Commitment, and the outcome of those reviews; and other information requested by the Provost (Executive Vice President for Health in the case of the schools of Dentistry and Nursing).

(5) Responsibility of the Dean of the School of Medicine

In recognition of the unique significance of conflicts at an integrated academic medical center, the Provost and Executive Vice President for Health have delegated broad authority to the Dean of the School of Medicine to interpret the principles outlined in this policy for implementation in connection with all matters under this policy arising out of the School of Medicine and for all research studies involving human subject research reviewed by the School of Medicine's IRB. As is the case for all NYU policies, the Dean of the School of Medicine may introduce additional restrictions to this policy in order to implement the principles outlined above.

The Dean of the School of Medicine will provide a report annually to the Provost and the Executive Vice President for Health on the School of Medicine's compliance with this policy. Such report will include the number of annual disclosures required to be filed by the faculty of the School of Medicine, the number received and reviewed, and the outcome of the reviews; the number of disclosures reporting Conflicts of Interest and Conflicts of Commitment, and the outcome of those reviews; and other information requested by the Executive Vice President for Health.

D. Appeals

Should a faculty member wish to appeal a decision made by a school dean on any matter contemplated by this policy, the faculty member may present the appeal to the Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing) who will consider the case in consultation with the school dean and, at his or her discretion, the appropriate Committee contemplated by this policy.

E. Enforcement

Violations of this policy are subject to disciplinary action, up to and including termination of employment or association with NYU, in accordance with the NYU disciplinary policies and procedures applicable to the respective faculty member or Investigator as set forth in the Faculty Handbook and in the policies and procedures of the relevant schools.

For matters related to Research and Other Sponsored Projects, if there is a determination by the school dean and/or the applicable Committee and/or Provost (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing) after review by the applicable Committee that the failure of an Investigator to comply with this policy, including a conflict management or mitigation plan adopted pursuant to this policy, has biased the design, conduct, or reporting of a research project, the school dean will promptly notify the Senior Vice Provost for Research (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing), who will coordinate notification of the project's sponsor and any other potentially affected party, and require other notifications (e.g., to journals and sponsors of public presentations) as appropriate.

In addition, in any case where such Research and Other Sponsored Projects' purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment has been designed, conducted, or reported by an Investigator with a Conflict of Interest that was not managed or reported by NYU as required, the school dean, in consultation with the Senior Vice Provost for Research (the Executive Vice President for Health in the case of the schools of Medicine, Dentistry and Nursing), will require the Investigator involved to disclose the Conflict of Interest in each public presentation of the results of the research and to request an addendum to previously published presentations.

F. Record Retention

Records related to this policy will be maintained in accordance with NYU's Retention and Destruction of Records Policy as in effect from time to time; provided, however, that records relating to Investigator financial interest disclosures and NYU's review of, or response to, such disclosures (whether or not a disclosure resulted in a determination of a Conflict of Interest), will be maintained for at least three years from the date of submission of the final expenditures report (or such longer period as required by the federal sponsoring agency) on the applicable Research and Other Sponsored Projects even if a shorter retention period is specified under NYU's Retention and Destruction of Records Policy. All records relating to Investigator financial interest disclosures and NYU's review of, or response to, such disclosures will be retained either by the appropriate Dean or by the Faculty Advisory Committee, as applicable.

Examples of Conflict of Interest

The following are examples of specific Conflicts of Interest intended to illustrate certain of the principles described in Sections IV and V above:

- (1) A faculty member or Investigator proposes to take a Consulting position to assist an organization that seeks to compete directly with an NYU program. For example, a faculty member in the School of Medicine proposes to take a Consulting position with a major academic medical center in NYC in a clinical area that competes directly with NYU or a faculty member involved with NYU's establishment of a portal campus proposes to take a Consulting position to assist a major university in its efforts to establish a competing portal campus.
- (2) A faculty member or Investigator accepts a payment from a company with which the faculty member or Investigator recommends NYU contract.
- (3) A faculty member or Investigator proposes that NYU enter into a business transaction with an entity in which the faculty member or Investigator (or his or her Immediate Family Member) has an Ownership Interest.
- (4) A faculty member or Investigator proposes that NYU use or purchase a product in which the Investigator has a proprietary interest. For example, a faculty member advocates the use of software the faculty member created prior to joining NYU and as to which the faculty member receives a royalty based on the commercial use of the software.
- (5) A faculty member or Investigator proposes to accept a gift (which includes entertainment) from an entity that is seeking to sell a product to NYU and as to which the faculty member's or Investigator's view of the product will be solicited before a purchasing decision is made by NYU.
- (6) A faculty member or Investigator proposes that NYU enter into a technology licensing arrangement with an entity in which the faculty member or Investigator or an Immediate Family Member serves on the board of directors or is employed.
- (7) A faculty member or Investigator proposes that NYU hire or contract with a member of his or her family for a position that is within his or her direct or indirect supervision or control. NYU's employment of a family member must be in accordance with NYU's *Policy on the Employment of Members of the Same Family*.
- (8) A faculty member or Investigator proposes to undertake or orient his or her research at NYU to serve the private interests of an outside firm without disclosure and permission.
- (9) A faculty member or Investigator proposes to share unpublished data from NYU research with a company as part of a consulting engagement or in discussions about a proposed consulting engagement.

The following are examples of specific Conflicts of Interest arising out of a Research and Other Sponsored Projects intended to illustrate certain of the principles described in Section V above:

- (1) A faculty member or Investigator proposes that NYU accept funding in support of his or her research from an entity in which the faculty member or Investigator (or his or her Immediate Family Member) has an Employment/Management Role.
- (2) A faculty member or Investigator proposes that NYU use or test a product made by an entity in which the faculty member or Investigator (or his or her Immediate Family Member) has an Ownership Interest.
- (3) A faculty member or Investigator proposes that NYU use or test in a clinical research study a product or process that is patented by NYU and as to which the faculty member or Investigator receives Royalty Income pursuant to NYU's *Statement of Policy on Intellectual Property*.

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