

**APPENDIX
EL PASO SCHOOL OF MEDICINE
SELF-STUDY DOCUMENT
FOR
PRELIMINARY ACCREDITATION**

SECTION IV: FACULTY

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TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

Operating Policy and Procedure

HSC OP: 60.09, **Faculty Recruitment Procedure**

PURPOSE: The purpose of this HSC Operating Policy/Procedure (HSC OP) is to ensure a standardized approach in the handling of faculty recruitment, and responsiveness to affirmative action and equal employment practices in the employment of faculty.

REVIEW: This HSC OP will be reviewed by November 1 of every even-numbered year (ENY) by the Assistant Vice President for Human Resources and the Vice President for Diversity and Multicultural Affairs, with recommendations for revision forwarded to the Executive Vice President for Academic Affairs by December 1.

POLICY/PROCEDURE:

In meeting the diversity goals of our institution and as a federal contractor, accountability is required for affirmative action and equal employment practices in the employment of faculty at Texas Tech University Health Sciences Center. The procedures for the faculty employment process are as follows:

1. At the beginning of a faculty search, the chairperson of the search committee must contact their Dean's office for a briefing on affirmative action and equal employment opportunity procedures. Annually, representatives from each Dean's office e.g. the Associate Dean for Faculty Affairs, will meet with the Assistant Vice President for Human Resources and the Director of Equal Employment Opportunity and Affirmative Action to be updated on appropriate procedures.
2. Position descriptions should be prepared and advertising reviewed in the Office of the department chair and relevant Dean.
3. The *Faculty Recruitment Procedure Checklist* (Attachment A) must be completed and maintained on every position by the chair of the Search Committee.
4. The *Notification of Faculty Vacancy and Recruitment* form (Attachment B) must be completed by the search committee chair and sent to the Equal Employment Opportunity Office and Human Resources Office.
5. The search committee chair ensures that the position requisition is posted to the Texas Tech Job website.

As a federal contractor, Texas Tech University Health Sciences Center is charged to monitor and analyze employment activity regarding its affirmative action plans and programs. The Texas Tech Jobs website is designed to collect the necessary data. Reports are available detailing the information upon request at the conclusion of a search.

6. Before screening begins, the search committee will construct a matrix to be used to compare each candidate's qualifications to those stated in the position description. Each of the stipulated qualifications should be represented and, if the search committee determines that is necessary and appropriate, the scores applied to each qualification may be weighted. Examples of appropriate matrixes are available on the Human Resources Office website.
7. The *Faculty Searches Affirmative Action In-progress Review* form should be completed after the first screening, a copy returned to the appropriate dean, and a copy sent to the Equal Employment Opportunity Office before interviews are arranged (Attachment C). The diversity information required for this form can be generated upon request from the Texas Tech Jobs website.

8. Before a selection is made, each committee should carefully review its procedures to ensure that members of all groups have received fair consideration.
9. Request for employment via an appointment form (*Personnel Action Form*) is to be accompanied by Attachment D and the completed *Faculty Recruitment Procedure Checklist* (Attachment A). The request for appointment is initiated by the department chairperson and recommended by the dean of the school. At the time of appointment, the curriculum vitae, and/or application materials and a copy of the individual's social security card must be sent with the *Personnel Action Form* (PAF) to the Human Resources Office. The official faculty transcripts must be on file in the office of the relevant Dean. It is the responsibility of the department chairperson to which the faculty member is appointed to obtain the official transcripts and the curriculum vitae from the faculty member.
10. The *Affirmative Action Personnel Record Form* (yellow form) (Attachment E), which is attached to the PAF, should be completed and mailed to the TTUHSC Equal Employment Opportunity Office at MS/P.O. Box 41073 Lubbock, Texas 79409-1073.
11. Records of faculty recruitment activities are to be retained for three years from the time of appointment. Records are to include the position requirements, qualifications of applicants, voting results, if any, and the matrix documenting the reasons for priority positioning of candidates. Rejections of our offer of a position by potential candidates are to be documented and retained.
12. Right to Change Policy. TTUHSC reserves the right to interpret, change, modify, amend or rescind this policy in whole or in part at any time without the consent of employees.

Attachment A: *Faculty Recruitment Procedure Checklist*

Attachment B: *Notification of Faculty Vacancy and Recruitment*

Attachment C: *Faculty Searches Affirmative Action In-Progress Review*

Attachment D: *Memorandum to the Dean and Executive Vice President for Academic Affairs*

Attachment E: *Affirmative Action Personnel Record Form*



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

Operating Policy and Procedure

HSC OP: 51.01, **Equal Employment Opportunity Policy and Affirmative Action Plan**

PURPOSE: Texas Tech University Health Sciences Center (TTUHSC) has established an Equal Employment Opportunity (EEO) Policy and implemented an Affirmative Action (AA) Program in compliance with the following federal and state laws:

1. U.S. Presidential Executive Order 11246, as amended;
2. Fair Labor Standards Act;
3. Equal Pay Act of 1963;
4. Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972;
5. Age Discrimination in Employment Act of 1967, as amended;
6. Comprehensive Health Manpower Act of 1971;
7. Title IX of the Education Amendments of 1972;
8. Rehabilitation Act of 1973, as amended;
9. Vietnam Era Veterans Readjustment Assistance Act of 1974;
10. Immigration Reform and Control Act of 1986;
11. Americans with Disabilities Act of 1990;
12. Civil Rights Act of 1991; and
13. Family and Medical Leave Act of 1993.

REVIEW: This HSC OP will be reviewed August 1 of each year by the Managing Director of the Texas Tech University System (TTUS) Office of Equal Employment Opportunity (EEO) and General Counsel, with recommendations for revisions forwarded to the Executive Vice President for Finance and Administration (EVPFA) by September 1 of each year.

It shall be the responsibility of each person affected by this HSC OP to devise methods for carrying out all of its instructions.

POLICY/PROCEDURE:

1. **Equal Employment Opportunity/Affirmative Action Policy.**

TTUHSC will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, physical or mental disabilities, Vietnam Era or Special Disabled Veteran Status. TTUHSC will take affirmative action to ensure that applicants are employed, and that employees are treated equally during employment without regard to their race, color, religion, sex, national origin, age, physical or mental disabilities, Vietnam Era or Special Disabled Veteran Status. Such action shall include, but not be limited to any of the following employment transactions: upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-off or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship.

TTUHSC also prohibits any harassment based on race, color, religion, age, sex, national origin, or disability. Harassment is verbal or physical conduct that shows hostility toward an individual because of these protected rights, and that has the purpose or effect of creating an intimidating, hostile, or offensive working environment; has the purpose or effect of unreasonably interfering with an individual's work performance; or otherwise adversely affects an individual's employment opportunities.

Employees or applicants for employment may file employment-related complaints of discrimination with the TTUS Office of EEO. Faculty employment complaints of discrimination may be filed with the TTUS Office of EEO.

Retaliation is strictly prohibited against a person who files a complaint of discrimination or harassment, opposes a charge or testifies, assists or participates in an investigative proceeding or hearing.

Pursuant to state legislation, all new benefits-eligible faculty and staff and insurance-eligible graduate students must attend non-discrimination training within the first 30 days of employment and receive supplemental training every two years. This training includes Sexual Harassment Prevention Training. Employees are required to sign a statement which verifies attendance to this training. Signed attendance statements will be recorded in the employee's personnel file.

Employees are informed of the TTUHSC EEO policy through new employee orientations, compliance EEO training sessions, the distribution of EEO pamphlets, and the placement of EEO federal and state posters at various locations throughout the campus. Information about the TTUHSC EEO policy can also be obtained from Human Resources.

2. Procedure.

It is the responsibility of the TTUS EEO Office to ensure that TTUHSC complies fully with all provisions of executive orders, legislative acts, federal guidelines, and pertinent case law, which form the legal basis of the TTUHSC Equal Employment Opportunity/Affirmative Action policy.

Specific responsibilities under Executive Order 11246 as amended, and Title VII of the Civil Rights Act of 1964 are:

- a. Development of the Affirmative Action Plan (AAP).
 - (1) Beginning September 1 of each year, the TTUS EEO Office staff will begin preparing annual revisions to the Affirmative Action Plan by:
 - (a) Reviewing changes in the legal framework for EEO/AA;
 - (b) Securing the most recent data sources for computing the two-factor utilization analysis;
 - (c)

<u>Factor</u>	<u>Description</u>
1	Percentage of minorities and women among those having requisite skills in the reasonable recruiting area
2	Percentage of minorities and females among those promotable, transferable, or trainable in the contractor's organization
 - (d) Revising job groups based on the information obtained;
 - (e) Computing the two-factor utilization analysis for all job categories;
 - (f) Establishing goals and timetables for non-instructional employees based on the results of two-factor utilization analysis for these groups; and
 - (g) Informing the Assistant Vice President for Human Resources of the status and goals of non-instructional job groups.
 - (2) Beginning November 1 of each year, the TTUS EEO office staff will establish goals and timetables for instructing employees by:

- (a) Providing the division administrator(s) with availability factors relating to their respective job groups. The administrators will use this information along with consideration of the vacancies that exist in each school, possible promotions, and increases or decreases in department size, to establish goals and timetables for their division;
 - (b) Revising the narrative of the plan to reflect progress made toward implementation of the previous year's goals and incorporating this information into the Affirmative Action Plan and completing the plan; and,
 - (c) Providing the Affirmative Action Plan to General Counsel for review and approval.
- (3) After the Affirmative Action Plan receives approval from the EVPFA and General Counsel, it will be presented to the President for his approval and signature.
 - (4) After the President has approved and signed the revised plan, it will be returned to the TTUS EEO Office where it will be kept on file as required by the Department of Labor, Office of Federal Contract Compliance.

b. Implementation of Equal Employment Opportunity and Affirmative Action.

Responsibility for implementing TTUHSC's Equal Employment Opportunity Policy and the coordination of affirmative action efforts rests with each divisional administrator (president, vice presidents, deans, directors, department chairpersons, and other supervisory personnel). The TTUS EEO Director is specifically responsible for the following:

- (1) Developing policies and procedures necessary for the implementation of TTUHSC's AAP;
- (2) Designing and implementing auditing report systems necessary to comply with TTUHSC's AAP; and,
- (3) Providing supervisory training in EEO and AA.

riod of one year has elapsed from the termination date of a prior term unless he or she was elected to serve less than two years of an unexpired term of a previous member. The dean member shall serve for three years, but shall not be eligible to serve consecutive terms. The committee shall determine its own rules of procedure.

04.02.10 Implementation and revision

This policy is to be implemented immediately upon approval by the Board of Regents. Faculty members in a probationary status on that date will have the opportunity to choose the tenure policy--the policy applicable to them or this policy--under which they wish to be considered for tenure. All tenured faculty members are subject to applicable provisions and procedures of this tenure policy. The tenure of faculty members who have attained tenure under prior policies at Texas Tech University continues. This policy shall not be applied in derogation of any faculty member's contract rights.

Revisions to this policy may be proposed to the Board of Regents by the president. The Tenure Advisory Committee, the Faculty Senate or other academic groups may submit proposals to the provost. Such proposals shall be reviewed by the Tenure Advisory Committee and the Faculty Senate. Following this review, the provost shall present approved proposals to the faculty for consideration. In this process, the voting faculty (as defined in the Constitution of the Faculty Senate) shall be polled for approval or disapproval of the proposals. If approved by the voting faculty, the proposals shall be forwarded by the provost to the president for his review and, if the president approves, to the Board of Regents for its consideration. Under the statutory authority of the State of Texas, the Board of Regents has the sole authority to revise this tenure policy.

04.03 Tenure -- TTUHSC

TTUHSC is a community of scholars dedicated to teaching and to the advancement of scientific knowledge through research. An essential component of academic endeavor provided by faculty members who have clinical skills is participation in the care of patients. Faculty members may also serve

the academic community through participation in institutional governance (e.g., committee work) in addition to other activities. Some faculty members of TTUHSC also make important contributions to the community in the form of their public service. All of these contributions by faculty members will be recognized as essential to the mission of TTUHSC.

A position as a faculty member at TTUHSC implies correlative responsibilities. In addition to maintaining standards of competence, particularly those relating to scholarship and teaching ability, faculty members are also responsible for maintaining the proper attitude in objectivity, industry and cooperation with associates in the university.

As persons of learning, faculty members should remember that the public may judge their profession and institution by their statements and other actions. Thus, they should be accurate at all times, exercise appropriate restraint, and show respect for the opinions of others.

Whenever the context of this policy states the masculine gender it shall include the feminine or neuter, and the singular number shall include the plural, as appropriate.

- 04.03.1 Academic freedom. Achievement of the teaching, research, patient care and service missions of TTUHSC depends upon an uninhibited search for truth and its open expression. Hence, it is essential that each faculty member be free to pursue scholarly inquiry without undue restriction, and to voice and publish individual conclusions concerning the significance of evidence that he or she considers relevant.

A faculty member at TTUHSC is entitled to full freedom in the classroom in discussing the subject which he or she teaches, but should refrain from introducing controversial matters which have no relation to the classroom subject. Each faculty member when speaking, writing or acting as a citizen of the nation, state and community, must be free from institutional censorship or discipline, and should make it clear that in this capacity he or she does not speak for TTUHSC. A faculty member is subject to academic responsibility as noted below in this policy.

04.03.2 Academic responsibility. The concept of academic freedom for faculty members is accompanied by an equally important concept of academic responsibility. A faculty member has a responsibility to: the TTUHSC; his or her profession; students; and society at large. The rights of a faculty member as extended by society and protected by written policies and the courts, require reciprocally the assumption of certain responsibilities. The fundamental responsibilities of a faculty member as a teacher, scholar and/or clinician include the maintenance of competence in his or her field of specialization as exhibited in the classroom, clinic or laboratory, and in the public arena by such activities as discussions, lectures, consulting, publications and participation in professional organizations and meetings.

Statements by a faculty member are protected even though they may be critical in tone or content; however, such statements are not protected by free speech if they substantially impede the faculty member's performance of his or her daily duties, materially and substantially interfere with the regular operation of TTUHSC, or are part of a continuing pattern of expression that may destroy the harmony and morale of an academic unit. False statements made publicly with knowledge of their falsity, or in reckless disregard of the truth, are not entitled to constitutional protection; such action may call into question the fitness of the faculty member to perform his or her professional duties.

A faculty member should be judicious in the use of controversial material in teaching and should introduce such material only as it has a clear relationship to his or her subject matter. A faculty member should be professional in his or her conduct in the classroom and in relationships with students, maintain respect for the student and for the student's rights in the learning experience, and be appropriately available to students for consultation on course work.

04.03.3 Tenure perspectives

- a. Concept of tenure. Academic tenure has been developed so that TTUHSC may have the benefit of the competent and honest judgment of its faculty. It thus recognizes the professional

status of the faculty member and assures that employment may be terminated only for cause or as noted below. After tenure is granted, the burden of proof rests upon TTUHSC when it wishes to dismiss a faculty member.

- b. Purposes of tenure. The purposes of tenure are to protect the academic freedom of the faculty member, to ensure faithful observance of the requirements of academic due process, and to retain, encourage, and promote the ablest and most promising faculty members. This policy defines the types of appointments that may lead to tenure and specifies procedures for granting tenure.
- c. Acquisition of tenure. Tenure may be attained at certain ranks only after a period of probationary service. Awarding of tenure in TTUHSC will be based upon excellence of performance in the following areas relevant to faculty member's discipline:
 - (1) scholarly pursuits;
 - (2) patient care;
 - (3) administrative service; and
 - (4) public service.

Tenure at TTUHSC is obtained only by affirmative action by the board.

- d. Ranks eligible for tenure. Members of the faculty with the rank of associate professor and professor are eligible for tenure. One may not attain tenure in such positions as lecturer, instructor, assistant professor, or in any of the non-tenured ranks listed in Section 04.03.4, *Regents' Rules*. In addition, tenure does not apply to administrative appointments.

04.03.4 Non-tenure track appointments.

Term appointment. A term (non-tenured) appointment is written for a specific period of employment. All faculty appointees in non-

tenured positions shall be given a statement in writing of the conditions and period of their employment. Term appointments may be renewed; however, reappointment of any such position shall not create the right to a subsequent term appointment. Time served by persons in non-tenure track series cannot be used as time accrued toward tenure. Each school may select titles from the following non-tenure track appointment titles:

a. Resident physician appointments

- (1) assistant instructor, or
- (2) senior assistant instructor.

These non-tenure track appointments may be made on a resident appointment or fellow appointment as well as full-time or part-time basis. The term "assistant instructor" shall be used for those individuals who are resident physicians below the rank of chief resident in the TTUHSC system. The term "senior assistant instructor" shall be used for those who are chief residents or who are in post-residency fellowship training.

b. Faculty appointments

- (1) instructor;
- (2) assistant professor;
- (3) associate professor; or
- (4) professor.

These four appointments may be used for full-time non-tenure track faculty members and for individuals with the appropriate professional credentials who are full-time employees of institutions holding formal affiliation agreements with TTUHSC.

c. Clinical appointments

- (1) clinical lecturer;

- (2) clinical instructor;
- (3) clinical assistant professor;
- (4) clinical associate professor; or
- (5) clinical professor.

These five non-tenure track appointments are reserved for appointees with less than half-time appointments, i.e., less than half-time commitment to and less than half-time compensation from TTUHSC.

d. Teaching appointments

- (1) academic lecturer;
- (2) academic instructor;
- (3) academic assistant professor;
- (4) academic associate professor; or
- (5) academic professor.

These five non-tenure track appointments are for full-time or part-time faculty members engaged primarily in teaching with incidental research and/or patient care responsibilities.

e. Research appointments

- (1) research instructor of (title of discipline);
- (2) research assistant professor of (title of discipline);
- (3) research associate professor of (title of discipline); or
- (4) research professor of (title of discipline).

These four non-tenure track appointments are for full-time faculty members engaged primarily in research with incidental teaching and/or patient care responsibilities.

f. Adjunct appointments

- (1) adjunct instructor;
- (2) adjunct assistant professor;
- (3) adjunct associate professor; or
- (4) adjunct professor.

The term "adjunct" may be used in conjunction with any appropriate non-tenure track title to indicate that the appointee is regularly engaged as an employee of another institution or agency. The "adjunct" series may also be used for TTUHSC employees who may be engaged in part-time or full-time teaching and/or patient care activities in a duly authorized TTUHSC program and whose compensation is not derived from TTUHSC state-appropriated faculty budgets.

g. Visiting appointments

- (1) visiting associate professor, or
- (2) visiting professor.

These two non-tenure track appointments are reserved for distinguished individuals who meet the criteria for appointment in senior academic ranks. Visiting appointments may be part- or full-time, but not continuing unless approved by the appropriate administrative authority.

h. Clinical subseries

- (1) instructor of clinical (title of discipline);
- (2) assistant professor of clinical (title of discipline);

- (3) associate professor of clinical (title of discipline); or
- (4) professor of clinical (title of discipline).

These four non-tenure track appointments are for full-time faculty members engaged primarily in patient care with incidental teaching and/or research responsibilities and/or faculty whose assignments emphasize clinical teaching and service.

- i. Faculty associate. The faculty associate non-tenure track title may be used for persons who are employees of TTUHSC and who function in an academic support role (e.g., librarians).
- j. Conditions of non-tenure series appointments
 - (1) Faculty appointments in the non-tenure track series shall be reviewed annually by the heads of academic units and the dean. A notice of non-reappointment will be issued to full-time faculty excluding adjunct and visiting no less than four months prior to August 31 of each year.

After a period of five years of service in the full-time non-tenure track at the assistant professor, associate professor, or professor level, a notice of reappointment or non-reappointment will be issued no less than one year prior to August 31 of each year.

- (2) After a period of five years of service in the non-tenure track at the assistant professor level or three years at the associate or professor level, extended appointments not to exceed five years may be offered upon recommendation by the head of the academic unit and approval of the dean.
- (3) Although a reason for a decision of non-reappointment is not required, a decision not to reappoint cannot be caused by considerations violative of academic freedom or constitutionally impermissible reasons. Each faculty member is entitled to see all of his or her personnel files and to obtain

a copy of the information contained therein at his or her expense. The appeal process for an alleged violation of academic freedom or constitutionally guaranteed rights in the non-reappointment process is set out in Section 04.03.8.b., *Regents' Rules*.

- (4) The transition from the non-tenure track series to the tenure track (or vice versa) may be allowed following review and mutual agreement by the faculty member, the head of the academic unit, and the dean. Absent extraordinary circumstances which are approved by the dean, only one transfer between tracks will be allowed.
- (5) A faculty member in a non-tenure appointment may be dismissed only for cause during the term of the appointment as set out in Sections 04.03.9 and 04.03.10, *Regents' Rules*.

04.03.5 Tenure track appointments. Time served on the tenure track in the assistant professor, associate professor and professor ranks shall count as probationary time toward the award of tenure. (See also Section 04.03.6, *Regents' Rules*, tenure schedule.) Tenure may be awarded only at the associate professor and professor ranks.

a. Tenure track appointments

- (1) assistant professor;
- (2) associate professor; or
- (3) professor.

b. Tenured appointment. A tenured appointment assures the right of the faculty member to a continuing academic position of employment. The tenured faculty member is subject to possible adjustments regarding salary, administrative position and employment duties.

c. Probationary appointment. Probationary appointees serve in a faculty status leading to the possible awarding of tenure. A

probationary appointee is reappointed after appropriate review each academic year unless given appropriate notice (as noted in Section 04.03.8.a., *Regents' Rules*). Such appointees are subject to possible adjustments regarding salary and employment duties.

- d. Academic appointment. Only persons with full-time appointments are eligible for tenure. Tenure applies to full-time faculty including those full-time faculty with nine month appointments. Although tenure does not apply to administrative positions, faculty members holding administrative positions may be tenured in their respective academic units.
- e. Continuous full-time appointment. Tenure applies to continuous full-time appointment in the academic units which have the authority to initiate tenure recommendations. The following rules govern the effect of a leave of absence upon the maximum probationary period: leave for four months or less during an academic year shall be included in the maximum probationary period; continuous leave for more than four months shall cause that entire academic year to be excluded from the maximum probationary period.
- f. Joint appointment. A faculty member who holds a 50/50 percent of effort joint appointment in two TTUHSC academic units may achieve tenure in the joint position. If one of the units refuses to recommend tenure upon expiration of the probationary period and renders due notice, tenure shall not be awarded unless the faculty member is given full-time employment in the academic unit that desires to recommend tenure.

In a joint appointment other than 50/50 percent of effort, tenure may be achieved only in the unit where an appointment greater than 50 percent is held. That unit then must be prepared to absorb the remainder of the faculty member's appointment if the faculty member relinquishes, or is asked to relinquish, the part of the appointment that is less than 50 percent.

- g. Restructuring of basic academic units. If a basic academic unit (department) is merged with another academic unit or reorgan-

ized into a new unit, the tenured faculty member in the basic unit shall not lose his or her tenure appointment solely because of such reorganization.

- 04.03.6 Tenure schedule. The probationary periods specified herein shall be viewed as maxima. Promotion and tenure may be awarded to qualified faculty members in shorter periods of time when the circumstances warrant. If a faculty member fails to receive tenure and/or promotion when considered before the end of the probationary period, this shall not jeopardize reconsideration in subsequent years.

Maximum probationary periods for admission to tenure are determined by rank:

- a. Assistant professor. Before the end of a seven-year probationary period, an untenured assistant professor must be notified in writing either that both promotion and tenure have been awarded or that the appointment will not be renewed at the end of the eighth year.
- b. Associate professor. Before the end of a four-year probationary period, an untenured associate professor must be notified in writing either that tenure has been awarded or that the appointment will not be renewed at the end of the fifth year.
- c. Professor. Before the end of a three-year probationary period, an untenured professor must be notified in writing either that tenure has been awarded or that the appointment will not be renewed at the end of the fourth year. The academic unit may recommend tenure at the time of the initial appointment of a professor in exceptional cases.
- d. Computing years of credit toward tenure. For computing probationary periods for admission to tenure, the effective date of each appointment shall be September 1st of the calendar year in which the appointment is made. There shall be a common tenure anniversary date of August 31 for all tenure-eligible academic appointments. (See Section 04.03.5.e., *Regents' Rules*, for computing periods of leave without pay.)

Credit toward tenure that was accrued at another institution of higher learning (or during previous employment with TTUHSC) may be counted as partial fulfillment of the probationary period with a credit limit of three years. The number of credited years is determined with the advice and agreement of the prospective faculty member, the head of the academic unit, and the dean. The original letter of appointment shall contain specific information regarding the probationary years credited toward the acquisition of tenure.

- e. Extension of tenure-track probationary period. A TTUHSC faculty member may request an extension of his/her maximum probationary period (as set forth above) in order to accommodate the faculty member's duties in childbearing, childrearing, caring for a seriously ill family member, or other extraordinary circumstances. This period of time is explicitly not a leave of absence but rather is a defined period during which expectations for faculty performance are adjusted to reflect a faculty member's past or current circumstances.

The maximum extension that may be granted a faculty member is three years regardless of the combination of circumstances. A faculty member who is granted an extension of the probationary period will be judged and evaluated on the same basis and by the same standards as though there had been no extension.

- (1) Parenting a new child. An untenured, tenure-track faculty member who becomes the parent of a child by birth or adoption during the probationary period for tenure may request a one year extension of his/her maximum probationary period to provide time to adjust to the demands of parenting newly born or adopted children. An application for a second such extension can be submitted upon completion of the first extension.

Requests for extensions of the probationary period must be submitted as soon as possible after the birth or adoption. If both parents are employed in an eligible position at TTUHSC, each of them may request an extension of the

probationary period for each birth or adoption that adds a child or children to their family.

- (2) Extraordinary circumstances. When faced with extraordinary circumstances, an untenured, tenure-track faculty member may request an extension of up to three years of the maximum probationary period for reasons beyond the faculty member's control that deprive him/her of reasonable opportunity to demonstrate his/her ability and potential as a faculty member. Examples of extraordinary circumstances include, but are not limited to, care for a seriously ill child or family member, physical disaster affecting research materials, and exceptional institutional responsibilities.
- (3) Procedure for requesting an extension. A faculty member who wishes to request that the maximum probationary period be extended should make a request to that effect to his/her department chair. The request should include a detailed description of the circumstances thought to warrant an extension. The chair of the faculty member's department shall submit a memorandum to the appropriate dean outlining the department's view on the validity of the request. The dean's recommendation is sent to the executive vice president for academic affairs for final approval. Appeals may be made to the president.

04.03.7 Tenure and promotion decision process

- a. Criteria and standards. The criteria and areas to be considered in the tenure and promotion decision processes are scholarly pursuits (including teaching and research activity), patient care, administrative service, and public service.
- b. Guidelines. There shall be guidelines for tenure and promotion. Individual academic units (departments) shall translate tenure and promotion standards into guidelines appropriate to their disciplines. It shall be the responsibility of the deans to approve these standards and guidelines and to monitor their application. The dean and the head of the academic unit shall

review these guidelines periodically with appropriate recommendations from the faculty.

- c. Information regarding criteria, standards, and guidelines. It is the joint responsibility of the head of the academic unit, dean, and faculty member to ensure that the faculty member is apprised of the criteria, standards, and guidelines of the school and the academic unit in which they have been appointed. The faculty member shall be provided such material on request.
- d. Procedure for review of qualifications for tenure and promotion. Primary responsibility for evaluation of the academic qualifications of candidates for tenure and/or promotion rests with the faculty.

Where the organization permits, there are six sequential levels in the tenure and/or promotion review process:

- (1a) peer review by tenured faculty members in the academic unit for consideration of tenure;
- (1b) peer review by faculty members of higher academic rank in the academic unit for consideration of promotion;
- (2) review by the head of the academic unit;
- (3) review by the committee charged with tenure and promotion;
- (4) review by the dean; and
- (5) review by the president.

The president then makes appropriate recommendations to the board. Tenure and promotion are granted by the board.

In conducting reviews at the academic unit level, all tenured faculty shall have an opportunity to vote on a tenure recommendation. Likewise, in conducting reviews at the academic unit level, all faculty of higher academic rank shall have an op-

portunity to vote on a promotion recommendation. However, no faculty member currently or previously related by blood or marriage may participate in the tenure and/or promotion evaluation process of any such relative. The head of the academic unit is responsible for making an independent tenure or promotion recommendation to the dean. The vote summary of the appropriate faculty of the academic unit (or of any special review committee) is to be forwarded with the academic unit head's recommendation, along with appropriate documentation in the tenure or promotion dossier.

Each school within TTUHSC will have a committee responsible for tenure and promotion, the composition of which will be outlined in the school's respective bylaws. The school committee responsible for tenure and promotion should review basic recommendations for tenure and/or promotions in terms of academic unit and school standards. Each school committee will forward its recommendations to its respective dean, who will be responsible for all tenure and/or promotion recommendations emanating from the school. These recommendations, with accompanying documentation in the tenure and/or promotion dossier, will be forwarded to the president. The final recommendations on tenure and/or promotion will then be made by the president and forwarded to the board.

A faculty member may be granted tenure and/or promotion only by formal action of the board.

- e. Discrimination. All tenure and/or promotion judgments and recommendations rest upon objective requirements in relationship to the ability of the faculty member to perform effectively his or her responsibilities in teaching, research, patient care, and other service. Such judgments and recommendations are to be made without regard to race, religion, sex, age, national origin, marital status, or physical disabilities which do not obstruct professional performance.

04.03.8 Non-reappointment of faculty on tenure track probationary appointment



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

Operating Policy and Procedure

HSC OP: 60.01, **Tenure and Promotion Policy**

PURPOSE: The purpose of this Health Sciences Center Operating Policy and Procedure (HSC OP) is to publish *Regents' Rules*, Section 04.03, Establishing Rank and Awarding Tenure, in the HSC OP manual system.

REVIEW: This HSC OP will be reviewed on April 1 of each even-numbered year (ENY) by the Executive Vice President for Academic Affairs, with recommendations for revisions forwarded to the President by May 1.

POLICY/PROCEDURE:

1. The Board of Regents of TTUHSC reserves the authority and responsibility for establishing rank and awarding tenure to faculty of TTUHSC. The Dean of each School is responsible for evaluating and submitting the names of faculty eligible for consideration to the President's Office.
2. Proposed revisions to *Regents' Rules*, Section 04.03, may be submitted by the faculty council of a school through the respective Dean's Office or proposed by a special committee appointed by either the Chancellor or the President. Such proposed revisions will be reviewed by the TTUHSC President's Executive Council and the Chancellor. If approved, the President's Office will submit the proposed revisions to the Chancellor's Office as a Board action item following the procedures in HSC OP 01.01, Preparation of Agenda for Board of Regents' Meetings.

EVALUATION OF TEACHING EFFECTIVENESS OF INDIVIDUAL FACULTY MEMBERS

El Paso School of Medicine

Course: _____

Dates of Course: From: _____ **To:** _____

Name of Faculty Member: _____

Instructions to Students: The above named individual provided you instruction during the course and time listed above. Please evaluate the effectiveness of this person in providing sound instruction. In completing this questionnaire, you may identify yourself or you may remain anonymous. A thoughtful response on your part is essential for the continued improvement of the curriculum at El Paso School of Medicine. Completed evaluations will be collected by the course director at the conclusion of the course.

Knowledge of Topic: The instructor demonstrated a grasp of the topic presented

Strongly agree	Agree	Disagree	Strongly Disagree	Can't Evaluate
4	3	2	1	N/A

If you are unable to evaluate this activity, please state your reason:

Presentation Skills: The instructor provided an effective presentation that kept my interest and was informative (circle the assessment that is most consistent with your evaluation)

Strongly agree	Agree	Disagree	Strongly Disagree	Can't Evaluate
4	3	2	1	N/A

If you are unable to evaluate this activity, please state your reason:

Use of Learning Objectives: The instructor provided clear learning objectives at the beginning of the session(s) and used those objectives in the presentation of the topic

Strongly agree	Agree	Disagree	Strongly Disagree	Can't Evaluate
4	3	2	1	N/A

If you are unable to evaluate this activity, please state your reason:

Evaluation Methods: The instructor provided an evaluation that allowed you to assess your grasp of the material and was directly linked to the learning objectives

Strongly agree	Agree	Disagree	Strongly Disagree	Can't Evaluate
4	3	2	1	N/A

If you are unable to evaluate this activity, please state your reason:

Advisement Skills: The instructor provided you individual guidance on expectations of accomplishment and your individual plan to accomplish those expectations.

Strongly agree	Agree	Disagree	Strongly Disagree	Can't Evaluate
4	3	2	1	N/A

If you are unable to evaluate this activity, please state your reason:

Professionalism: The individual was professional in demeanor and showed respect to individuals in the class, visitors to the class, and colleagues

Strongly agree	Agree	Disagree	Strongly Disagree	Can't Evaluate
4	3	2	1	N/A

If you are unable to evaluate this activity, please state your reason:

In the space below, please provide any additional comments about these or other factors that influenced the effectiveness of this individual as an instructor

Name (optional)

Class

Date

TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

FACULTY DEVELOPMENT LEAVE APPLICATION FORM

Instructions: Items 1 through 5 of this form should be completed by the applicant and forwarded through the administrative channels as indicated on this form.

1. EMPLOYMENT AT TTUHSC

Name: _____

SSN: _____

Position Title: _____

Department/Division (if applicable): _____

School of: _____

Number of academic years applicant has been employed at TTUHSC: _____

Have you served as a member of the "faculty" for at least five consecutive academic years in the Schools of Allied Health Sciences, Nursing, Medicine or Pharmacy? _____

Have you previously had a faculty development leave at TTUHSC? _____

If yes, provide the dates and describe the results of the leave:

2. PROPOSED LEAVE

Provide a brief statement of the nature of the proposed leave:

Period (dates) for which leave and compensation are requested:

From: _____ To: _____

NOTE: A one-half year leave will be at full salary while a year leave will be at one-half salary.

3. SCHOLARLY AND PROFESSIONAL ACTIVITIES

Identify any projects that have facilitated the development of skills related to the proposed leave. Attach a current vitae, and if not included in the vitae, provide the following information on attachments using this numbering plan:

- a. Publication and creative activities.
- b. Participation in international, national and regional scholarly professional organizations.
- c. Related professional experience. (Exclude material covered in another section.)
- d. Honors, certificates, faculty fellowships, professional licenses, etc.
- e. Research grants and/or leaves received during the past five years and disposition of research conducted with the aid of these grants.

TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

FACULTY DEVELOPMENT LEAVE APPLICATION FORM

4. PROJECT INFORMATION

- a. Describe the development project including objectives and state how the applicant and TTUHSC will benefit from these activities.

- b. Describe related development work in the discipline and/or by project personnel.

- c. Provide a brief but explicit explanation of intended procedures to be followed including location of project, facilities to be used, and a schedule (when appropriate).

- d. Identify Project personnel other than the applicant and describe their responsibilities.

- e. Describe financial and budgetary matters including origins and amounts of financial resources for the project.

5. TERMS OF LEAVE

The undersigned agrees to return to the employment of Texas Tech University Health Sciences Center for a period of at least one year (full-time) following completion of this leave unless mutually agreed otherwise. In accordance with the Texas Faculty Development Leave Act, the undersigned agrees not to hold employment (during the period of the development leave) from any other person, corporation or government, unless the Board of Regents finds that it is in the public interest and that it otherwise meets requirements of law. It is understood that the leave of absence for faculty development will be subject to cancellation for violation of the conditions under which the leave was granted.

Signature of Applicant: _____ Date: _____

Type Name of Applicant: _____

TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

FACULTY DEVELOPMENT LEAVE APPLICATION FORM

6. CHAIRPERSON/ASSOCIATE DEAN APPROVALS

(Omit if the applicant is the chairperson or if there is no chairperson structure.)

- a. Does the applicant meet the eligibility requirement? _____
Is this proposal acceptable for review based on the information requested above? _____
- b. Provide an evaluation of the proposal in terms of the stated goals or purpose. (Including clarity completeness, reality, implication.)
- c. Provide an evaluation of the probability that the experience outlined in the proposal will enable the applicant to achieve the ends originally stated. (Including: nature of experience, quality of experience, time of experience, intensity of experience, record of productivity.)
- d. Provide an evaluation of the proposal in terms of the probable value of the achievement or improvement to the Department, School and HSC. (Including: instructional in nature, broadly beneficial, growth oriented.)

Signature of Chairperson: _____ Date: _____

Type Name of Chairperson: _____

Signature of Assoc Dean: _____ Date: _____

Type Name of Assoc Dean: _____

7. DEAN'S APPROVALS

() I have read this proposal and support the belief of its author that it will make a significant contribution.

() I have elected to attach additional information regarding my evaluation of this project.

Signature of Dean: _____ Date: _____

8. EXECUTIVE APPROVAL

EVP/AA: _____ Date: _____

President: _____ Date: _____

9. BOARD APPROVAL

(To be completed and distributed by the President's Office)

Date of Board Meeting and Item Number: _____

xc: Dean's Office; Chairperson; Applicant



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

Operating Policy and Procedure

HSC OP: 60.02, **Faculty Development Leave of Absence**

PURPOSE: The purpose of this Health Sciences Center Operating Policy and Procedure (HSC OP) is to ensure understanding and a standardized approach in the handling of faculty leaves of absence.

REVIEW: This HSC OP will be reviewed by April 1 of even-numbered years (ENY) by the Executive Vice President for Academic Affairs, with recommendations for revision forwarded to the President by May 1.

POLICY/PROCEDURE:

1. The Board of Regents may grant faculty development leaves of absence for study, research, writing, field observations or other suitable purposes, under conditions allowable by the State of Texas.
2. A faculty member is eligible by reason of service to be considered for a faculty development leave when he has served as a member of the faculty of the same institution of higher education for at least five consecutive academic years (all schools). This service may be as an assistant, associate, or full professor, or an equivalent rank, and must be on full-time academic duty but need not include teaching.
3. Such leaves will not jeopardize a faculty member's participation in benefits available by or through the institution or the state to faculty members, and a faculty member shall continue to be a member of the Teacher Retirement System of Texas or of the Optional Retirement Program of the institution, or both, just as any other member of the faculty on full-time duty.
4. The governing board may grant to a faculty member a faculty development leave either for one academic year at one-half of the position's regular salary or for one-half academic year at the position's full regular salary. Payment of salary to the faculty member on faculty development leave may be made from the funds appropriated by the legislature specifically for the purpose, or from such other funds as might be available to the institution.
5. Procedures for selection consistent with state guidelines are utilized by the President in making recommendations for faculty leaves to the Board of Regents.
6. The procedure to be used for leaves of absence for academic purposes shall be as follows:
 - a. The application for leave of absence shall be submitted to the faculty development leave committee of the respective Schools of Medicine, Nursing, Pharmacy and Allied Health Sciences. The composition and responsibility of the committee shall comply with the Faculty Development Leave Policy of the Schools of Medicine, Nursing, Pharmacy and Allied Health Sciences.

The faculty development leave committee of each School shall require submission, along with the application for leave of absence during which the faculty member will be engaged in research, of all necessary approvals or arrangements for approvals for the conduct of research, e.g., Institutional Review Board, Institutional Animal Care and Use Committee.

- b. The faculty development leave committee recommendations shall be submitted to the appropriate Dean, and the Dean shall make recommendations and submit other relevant information to the Executive Vice President for Academic Affairs.
 - c. The Executive Vice President for Academic Affairs shall forward a recommendation to the President.
 - d. The information to the President should include appropriate data for ratification by the Board of Regents.
 - e. Upon receipt of a copy of the approval of a leave of absence, the appropriate administrator initiates a Personnel Action Form to implement the activity.
7. Any amendment to this HSC OP shall be filed with the Coordinating Board no later than 30 days after the effective date of the amendment.



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

Operating Policy and Procedure

HSC OP: 73.09 **Conflict of Interest in Research**

PURPOSE: To ensure that faculty, staff and TTUHSC are protected from the consequences of conflicts of interest as a result of interaction with public and private sectors by recognizing and managing such conflicts.

REVIEW: This OP will be reviewed by February 1 of every even numbered year (ENY) by the Associate Vice President for Research, with recommendations for revision forwarded to the Executive Vice President for Academic Affairs.

POLICY/PROCEDURE:

1. Introduction

Texas Tech University Health Sciences Center ("TTUHSC") recognizes its responsibility as a public institution to promote interaction between its employees and the public and private sectors as an important component of its research, educational and service activities. TTUHSC and its employees are committed to conducting themselves and their activities in a manner consistent with the highest standards of integrity and ethics and as set forth in the Texas Tech University System Regents rules, Chapter 3. TTUHSC recognizes that interaction between the public and private sectors may give rise to conflicts of interest.

The potential for conflict of interest arises due to the nature and scope of activities engaged in by TTUHSC and its employees. Conflicts of interest may be actual, potential, or the appearance thereof, and, if not recognized and managed, may compromise the integrity of TTUHSC and the employee. TTUHSC assumes that conflicts may occur in the normal conduct of activities. However, it is essential that any significant potential for conflicts of interest be disclosed to, and be reviewed by, TTUHSC. TTUHSC recognizes that conflicts of interest may arise between TTUHSC and its employee(s) and the public and these institutional conflicts must also be recognized and managed.

The primary responsibility of TTUHSC employees is the full and complete execution of all assigned duties, the fulfillment of those professional obligations not ordinarily reduced to written assignment and the maintenance of current professional skills. Outside employment must be compatible with the interests of TTUHSC and of such a nature that it will not detract from the effectiveness and performance of the employee.

TTUHSC encourages recruitment, retention, and recognition of individuals who promote interactions with industry, the business community and other public or private entities consistent with their primary appointment. TTUHSC recognizes that such activity may conflict with other institutional interests and that such conflicts must be resolved.

The purpose of this policy is to recognize conflicts, provide for their acknowledgement, and, where acceptable, provide for their management.

2. Applicability

This policy applies to all employees of TTUHSC, students and trainees not paid by TTUHSC who are considered Research Personnel, and to affiliated individuals who use the TTUHSC affiliation as the basis for certain activities, e.g. private practice physicians with non-paid clinical appointments who under the aegis of TTUHSC conduct research with human subjects through a TTUHSC Institutional Review Board.

This policy also applies to TTUHSC where it invests in or accepts philanthropy of commercial research sponsors.

This policy does not apply to matters regarded as “conflict of commitment”. These would be handled through the faculty/staff evaluation process or under separate HSC policies.

3. Definitions

- a. “Annual or TTUHSC Disclosure” means disclosure of significant financial interest to TTUHSC as provided in this policy.
- b. “Compelling Circumstances” are those facts that convince the TTUHSC Conflict of Interest Committee that a financially interested individual(s), or TTUHSC, should be permitted to conduct research, including human subjects research and to develop a management plan to minimize the conflict. This decision shall not preempt a decision by an Institutional Review Board to the contrary.
- c. “Conflict of Interest Committee (COIC)” means the committee established under this policy to review conflicts of interest. The COIC and any sub-committees established under this policy shall be considered “medical committees” as defined under Texas Health & Safety Code, §161.031, and/or other applicable state and federal statutes. All documents generated by, submitted to, or for the purposes of fulfilling COI Committee duties are confidential and privileged as “medical committee documents”.
- d. “Designated Official” means individuals with signatory authority to bind TTUHSC to sponsored research agreements and contracts.
- e. “Investigator” means the principal investigator, co-investigators, and any other TTUHSC person who is responsible for the design, conduct, or reporting of research or educational activities funded or proposed for funding by an external agency, or funded by internal resources. This policy also applies to all TTUHSC employees as well as non-salaried or compensated individuals who may be affiliated with TTUHSC and use that affiliation to conduct research reviewed by a TTUHSC Institutional Review Board.
- f. “Institutional Official (IO)” means an institutional official responsible for negotiating or signing sponsored research agreements or contracts, including those for clinical trials.
- g. “Public Disclosure” means a release of relevant information about significant financial interests to entities outside of TTUHSC such as journal editors or research subjects.
- h. “Research Personnel” means individuals other than the investigator who participate in the research, e.g. a clinical coordinator for a clinical trial, or make decisions about eligibility to participate in research, e.g. determine who may be a subject in a clinical trial, or analyze or report research data, or submit manuscripts concerning research for publication.
- i. “Significant Financial Interest” for individuals means anything of monetary value that meets or exceeds the minimum established in Public Health Service regulation (Section 493A of the Public Health Service Act) which is currently \$10,000 (January 2004), including, but not limited to salary or other payments for services; equity interests; and intellectual property rights. Significant Financial Interest is the aggregate of the individual, spouse or spousal equivalent and dependent children or of any foundation, trust, or entity controlled or directed by the individual or their spouse from which they have or will derive a benefit.

A Significant Financial Interest includes but is not limited to:

- i. Consulting fees, honoraria (including honoraria from a third party, if the original source is a financially interested company), gifts or other emoluments, or “in kind” compensation from a financially interested company (or entitlement to the same) whether for consulting, lecturing, travel, service on an advisory board, or for any other purpose not directly related to the reasonable costs of conducting the research (as specified in the research agreement) that in the aggregate in the prior calendar year exceeded the minimum, or are expected to exceed that amount in the next twelve months;

- ii. Equity interests, including stock options, or any amount in a non-publicly-traded financially interested company (or entitlement to the same);
- iii. Equity interests (or entitlement to the same) in a publicly-traded financially interested company that exceed the defined minimum amount;
- iv. Royalty income or the right to receive future royalties under a patent license or copyright, where ongoing research is directly related to the licensed technology or research;
- v. Any non-royalty payments or entitlements to payments in connection with the research that are not directly related to the reasonable costs of the research as specified by the research agreement between the sponsor and the institution, for example, in clinical research this includes any bonus or milestone payments to the investigators in excess of reasonable costs incurred, whether such payments are received from a financially interested company; (See also HSC OP 65.06 Contracts and Grants Made Directly to Individuals.)
- vi. Service as an officer, director, or in any other fiduciary role for a financially interested company, whether or not remuneration is received for such service.

A Significant Financial Interest does **not** include:

- vii. Salary, royalties, or other remuneration from TTUHSC;
 - viii. Payments to the institution, or via the institution to the individual, that are directly related to reasonable costs incurred in the conduct of research as specified in the research agreements(s) between the sponsor and the institution.
 - ix. Royalties and honoraria for published scholarly or creative works;
 - x. Income from seminars, lectures, or teaching engagements sponsored by public or non-profit entities;
 - xi. Income from service on advisory committees or review panels for public or non-profit entities;
 - xii. An equity interest, when aggregated for the investigator and the investigator's family, and dependent children, that does not exceed the minimum value defined above as determined through reference to public prices or other reasonable measures of fair market value and does not represent more than a 5 percent ownership interest in any single entity. Mutual funds are excluded from reporting.
 - xiii. Salary, royalties, or other payments that when aggregated for the investigator and the investigator's spouse and dependent children, are not expected to exceed the defined minimum from any single entity during the next 12 month period.
- j. "Significant Financial Interest for TTUHSC" means
- i. TTUHSC is entitled to receive royalties from the sale of the investigational product that is the subject of the research;
 - ii. When, through technology licensing or investments related to such activities, the institution has obtained an equity interest or an entitlement to equity of any value (including options or warrants) in a non-publicly traded sponsor of the research, including human subjects research.
 - iii. When, through technology licensing activities or investments related to such activities, the institution has obtained an ownership interest or an entitlement to equity (including options or warrants) of greater than \$100,000 in value (when valued in reference to current public prices, or, where applicable, using accepted valuation methods), in a publicly traded sponsor of research at the institution.

- k. "Unit Head" means department chair, area coordinator, director, or in the case of colleges that do not have areas or departments, the dean.

4. Conflict of Interest Committee (COIC)

A TTUHSC Conflict of Interest Committee (hereafter referred to as "COIC") shall be established. The Committee will consist of nine members.

- a. The faculty committee representing each school (Medicine, Nursing, Allied Health Sciences, Pharmacy, Graduate School of Biomedical Sciences) shall appoint one faculty member from that school to the COIC.
- b. The Associate Vice President for Research (AVPR) will appoint four other members of the Committee, one of whom shall be appointed from the community and have no family or financial ties to TTUHSC.
- c. Committee members should be individuals who have sufficient seniority, expertise and independence to evaluate the competing interests at stake and make credible and effective recommendations.
- d. All voting members of the COIC shall be independent of the direct line of institutional authority for research, including human subjects research oversight at TTUHSC.
- e. At least two members of the Committee shall be familiar with ethical issues impacting human subjects research.
- f. Each member will be appointed for a 3-year term and may be reappointed.
- g. The Director of the Human Subjects Protection Office will be an Ex-officio member. The office of Texas Tech University System (TTUS) General Counsel will designate a non-voting Ex-officio member and alternate(s).
- h. Members of the COIC must recuse themselves from decisions in which the member has an apparent conflict of interest as determined by the COIC.
- i. The Chair and Vice-Chair will be elected to one-year terms by a simple majority vote of the full COIC. Votes may be cast by email. The Chair and Vice-Chair may be re-elected by the COIC for successive terms.
- j. Five (5) voting members must be present for a quorum for all other business. A quorum may include members present via telephone conference call.

5. Review of Disclosures and conflict of interest by COIC and development of management plans as appropriate

a. Review of Disclosures

The COIC shall establish procedures for review of all disclosures of a Significant Financial Interest as defined in section 3 and establish procedures for the review and management of conflicts.

b. Management of Conflicts of Interest

- i. The COIC may request the investigator(s) and other interested parties to appear before the committee to discuss the potential conflict and possible management strategies.
 - 1) Although not required to appear before the COIC, the COIC may request a written statement from the Managing Director of the Technology Transfer and Intellectual Property office about the current status of an investigator's research relationship(s) or agreement(s) involving a potential conflict.

- ii. As a first step, the financially interested individual should develop a plan to minimize the potential for conflict of interest by reducing or eliminating the interest or the individual's direct involvement in the research.
- iii. When the investigator is permitted to continue, the COIC will establish a management plan that includes public disclosure as required under section 12 of this policy, and may also include, but is not limited to, a board to review results prior to publication, assignment of a co-investigator, change of research protocol, prohibition of participation in all or a portion of the research.
- iv. The plan should also include the frequency of reporting and documentation by the investigator to the COIC or any review subcommittee established by the COIC to manage the conflict.
- v. If the COIC establishes a management or oversight subcommittee to manage the conflict of interest, the COIC will specify the frequency of reports from the subcommittee to the COIC.
- vi. For potential conflicts of interest involving research with human subjects, the COIC will assume that a conflict exists and determine whether there is a compelling interest to permit the research to go forward under certain conditions.
 - 1) The COIC will send a copy of the management plan to the Institutional Review Board (IRB). The IRB may accept or return to the COIC for revision any management plan. The IRB will determine how the conflict of interest should be disclosed to participating subjects.
- vii. The COIC shall inform the EVPAA, the Associate Vice-President for Research, the IRB, the Office of Sponsored Programs, and the Unit Head in writing of actions regarding the management of conflicts.
- viii. The COIC shall maintain records of disclosures for 15 years.
- ix. The COIC shall determine whether a conflict of interest is manageable or not.

Examples of manageable conflicts of interest include, but are not limited to, the following:

1. Situations in which the outside activity will conflict with previously established responsibilities to the University;
2. Situations that might allow a University employee to influence the University's dealings with an outside organization such that personal gain for the employee or unjust enrichment for anyone is the result; and
3. Supervision of student research activities when research in that area might lead to Significant Financial Interest or personal gain for the faculty member.

Examples of unacceptable conflicts of interest may include, but are not limited to, the following:

1. Use for personal profit of unpublished information originating from University research or other confidential TTUHSC resources;
2. Consulting under arrangements that impose obligations that conflict with the TTUHSC's intellectual property policy or with the University's obligations to research sponsors, or that inhibit the publication of research results obtained within the University; and
3. Circumstances in which a substantial body of research that could and ordinarily would be carried on within the University is conducted elsewhere to the disadvantage of the University and its legitimate interests.

6. Procedure for Annual Disclosure

a. Researchers and Institutional Officials

All employees or other individuals planning to act as Investigators or who have been identified as Research Personnel, Institutional Officials, and/or Designated Officials shall by August 31 of each year submit the Annual Financial Disclosure Form (Attachment A) to TTUHSC. New Research Personnel must submit the form within 30 days of hire and current employees being assigned research responsibilities must submit the form within 30 days of assignment. The unit head will submit a list of unit personnel engaged in research by August 31 of each year. If during the year, there is a change in the reported information the individual shall submit an updated form within 30 days. This disclosure will include Significant Financial Interest of the individual, spouse, and dependent children:

- i. Any direct Significant Financial Interest that would reasonably appear to be affected by the research or educational activities funded, or proposed for funding, by an external sponsor or by internal resources; or
- ii. Any indirect Significant Financial Interest in an entity whose financial interest would reasonably appear to be affected by the research or education activities funded or proposed for funding by an external agency or internal resource.

The above are minimum requirements. An employee, Research Personnel, or an Investigator may choose to disclose any other financial or related interest that could present an actual conflict of interest or be perceived to present a conflict of interest (e.g. ownership or substantial interest by an independent family member of the entity sponsoring the research). TTUHSC encourages such disclosure since disclosure is a key factor in protecting one's reputation and career from potentially embarrassing or harmful allegations of misconduct.

Such reporting to TTUHSC shall not relieve the individual of reporting required by other entities such as the Securities and Exchange Commission (SEC) or be at variance with such requirement, or contain information that would be restricted under insider information regulations of the SEC.

The disclosure form shall include an acknowledgement by each individual that they have read, understand, and agree to comply with this policy.

With each annual report, the individual must summarize any activities for the previous year covered by a COIC management plan.

b. Technology Transfer and Intellectual Property.

The office of Technology Transfer and Intellectual Property shall report in writing within 30 days of execution to the COIC of any licensing agreements that would create a Significant Financial Interest for an individual in ongoing or future research. Upon receipt of that document the COIC will follow procedures described above.

c. TTUHSC Institutional Disclosure

By September 1 of each year, the Development Office or any office overseeing institutional endowments or investments and the Office of Technology Transfer shall report in writing to administrative officials responsible for approving research and to the COIC all financial interests that meet the criteria above. The list shall also include any other information that may present an appearance of a conflict of interest that would diminish public trust in TTUHSC.

7. Disclosure at the Time of Proposal, Contract or Protocol Submission

Prior to submitting a proposal for funding to any external agency, each Investigator shall certify in the Office of Sponsored Programs and Division of Clinical Research routing form that he or she has disclosed any Significant Financial Interests as described in section 3 that would reasonably appear to be affected by the project for which funding is sought. Where a conflict is present and reviewed by

the COIC, the appropriate documentation shall be submitted with the application. Similar procedures shall apply to all contracts for research.

The Investigator and Research Personnel on proposals submitted to the Institutional Review Board (IRB) must declare all conflicts of interest as required by the IRB policies.

8. Prohibition on Payments for Results.

TTUHSC will not accept sponsored research or contracts, if payments are conditioned on a particular research result or are tied to successful research outcomes. All issues relevant to research with human subjects must conform to IRB Policies and Procedures and applicable federal requirements.

9. Institutional Conflict of Interest

TTUHSC may have a conflict of interest in research, including human subjects research, whenever financial interests of the institution or an Institutional Official acting within their authority on behalf of the institution might affect or reasonably appear to affect institutional processes for the conduct, review, or oversight of research. Administrative responsibilities for research should be separate from those of institutional investment or technology licensing and transfer.

a. Institutional Officials

An Institutional Official responsible for negotiating or signing sponsored research agreements or contracts, including those for clinical trials, is subject to the same potential conflicts of interest as an investigator. Because the involvement of the Official is so direct in the research decisions, this should be considered an institutional conflict of interest. All such Officials must also file the Disclosure form as described in section 6. Any conflicts will be referred to the COIC for resolution. If no conflict management plan is approved by the COIC, the research should not be conducted within or under the auspices of TTUHSC. Options for resolutions include but are not limited to, eliminating the conflict, recusing the official from participation in decisions involving the conflict, or appearance of conflict.

b. Conflicts of the Institution

i. Institutional

Financial relationships between TTUHSC and the commercial sponsor may present or appear to present a conflict of interest, even though TTUHSC has separated research and investment functions. Such agreements should receive close scrutiny. When a Significant Financial Interest of TTUHSC as defined in section 3j, is present, the COIC shall conduct a specific inquiry into whether the research should go forward.

If no conflict management plan is approved by the COIC, the research shall not be conducted within or under the auspices of TTUHSC. Options for resolutions include, but are not limited to, eliminating the conflict, appointment by the COIC of a faculty committee composed primarily of senior faculty to oversee the contractual commitments and review the proposed research and any publications.

ii. Conflict of Interest between TTUHSC and Employee

Financial relationships between TTUHSC and the commercial sponsor may present or appear to present a conflict of interest between TTUHSC and an employee. Examples of such conflicts are:

- 1) situations where both TTUHSC and the employee(s) share financial interests in a licensed technology and where disagreements arise between the parties about the commitment of the employee to further research; or
- 2) research requested by a sponsor with which TTUHSC has a financial interest through investment or philanthropy and with which the employee disagrees.

Such conflicts shall be referred to the COIC for management. If both parties do not agree on a resolution, TTUHSC will take no retaliatory action against the employee including

dismissal, denial of access to research resources, failure to promote or provide raises or other adverse employment action unless the employee was hired specifically for the purpose on working on the designated project. Personnel action against an employee on grounds that are unrelated to this conflict is not precluded.

10. Compliance

a. Research Personnel

No proposals will be submitted or contracts signed without the required certifications. When a conflict has been disclosed, the proposal or contract may be signed if the Institutional Official determines that the conflict can be managed or eliminated prior to the award of funds based on criteria provided by the COIC. However, no research may begin until the conflict has been resolved by the IO or COIC.

If a breach of the policy occurs, sanctions may be imposed by the COIC following their review. Any breach or suspected breach of policy shall be reported to the COIC. A breach includes, but is not limited to, failure to file or update a disclosure statement, intentionally filing an incomplete, erroneous, or misleading form; failure to provide additional information when requested by Unit Head, Institutional Official or COIC; violation of terms of plan for management of conflict approved by COIC.

Any person who believes that there has been a breach of policy is responsible to report the allegation to the COIC. Such report may be held confidential. However, if at the conclusion of the investigation, the reporting is considered by the COIC to be malicious or in bad faith, procedures described under the Honesty in Research and Allegations of Scientific Misconduct (HSC OP 73.07) shall be followed to identify and initiate appropriate action.

When an allegation of breach of this policy is received by the COIC, the COIC shall initiate an inquiry within 5 working days and may request information or documents from the individual as well as TTUHSC units such as Sponsored Programs. All requested documents should be provided to the COIC within 10 working days. The COIC will make an initial determination of whether or not there has been a breach of this policy and report the finding in writing to the individual and AVPR within 10 working days of receipt of the documents.

If a breach is found, the individual will be requested to respond to the finding in writing and may also appear before the COIC in person within 10 working days. The COIC will make a final determination within 10 working days of receiving the response of the individuals or appearance before the committee, which ever is later, and provide a written recommendation to the AVPR, copied to the individual.

Sanctions may include but are not limited to the following:

1. Letter of reprimand
2. Ineligibility of the employee for grant applications or supervision of research personnel
3. Suspension of research privileges
4. Non-renewal of appointment in accordance with Regents Rules Chapter 4
5. Dismissal in accordance with Regents Rules Chapter 4

11. Appeal of COIC Recommendations

A researcher may appeal a recommendation of the COIC to the AVPR. Written notice of appeal shall be given to the AVPR within 10 days of receipt of COIC recommendation, or prior to any action by the TTUHSC predicated on the COIC action, e.g. signing a contract, whichever comes first.

Sanctions, other than recommendation for non-renewal of appointment or dismissal may be appealed to the AVPR who has discretion to appoint an independent committee to review the process and report back to the AVPR.

Regarding an Institutional conflict of interest, TTUHSC Administration may appeal a COIC recommendation to an ad hoc committee composed of two members from each school that will be

appointed by the faculty executive committees of each school. The members of this ad hoc committee should be senior faculty members (Associate or Full Professor, preferably with tenure). TTUHSC shall provide notice of appeal to the faculty executive committees within 10 days of a COIC action. Appointments to the committee shall be made within 10 days of notice. The ad hoc committee shall convene within 5 days of appointment and receive the written administrative appeal. The ad hoc committee will report its recommendation to the Administration and the COIC within 20 working days.

TTUHSC can not be compelled to comply with this policy although it is in the best interest of TTUHSC to do so to maintain the public trust and to protect human subjects where clinical trials are concerned. Failure of TTUHSC to comply with this policy or a management plan will be reported by the COIC to the Chancellor.

12. Public Disclosure

A COIC conflict management plan will include mechanisms for public disclosure of the conflict of interest or appearance of conflict of interest. This may include, but not be limited to, disclosure in publications. The Institutional Review Board will determine the method of disclosure to subjects enrolled in human subjects research.

FINANCIAL DISCLOSURE FOR RESEARCH PERSONNEL

(Please type or print clearly)

Name _____
Title _____
Department/Unit _____ Campus/City _____
Supervisor (Chair, Director, Faculty) _____
TTUHSC ID # (or student ID #) _____
Telephone number _____
Fax number _____
Email _____

Please check ALL which apply to you:

Position(s)

- Faculty
- Dean
- Department chair/head
- Division Chief
- Director/Manager
- Administrator
- Clinical Trials staff
- Student/Resident/Fellow (compensated)
- Other (please specify)

Affiliation

- TTUHSC
- School of Medicine
- School of Allied Health Sciences
- School of Nursing
- School of Pharmacy
- Graduate School of Biomedical Sciences
- Institutional Review Board
- Private practice using TTUHSC (clinical non-compensated)
- Entity with Federal Wide Assurance for IRB (please specify)

Please answer all questions. Refer to HSC OP 73.09 as needed.

1. Does your work involve research or supervision of research? Yes (If YES, complete remainder of form)
 No (If NO, #2-9 not required)
2. Does your research involve interaction with a living individual or identifiable private information?
 Yes No

Please check ALL which apply for the individual named and immediate family members:

3. Consulting fees, honoraria, any gifts, emoluments, etc., from any sponsor of research in which involved (or research within the unit for unit heads), (policy section 3.i.i.)
4. Equity interests, including stock options or any amount in a non-publicly traded financially interested company or entitlement to same (policy section 3.i.ii)
5. Equity interests (or entitlement to same) in a publicly-traded financially interested company that exceeds defined amount (policy section 3.i.iii)
6. Royalty income or the right to receive future royalties under a patent license or copyright, where the research is directly related to the licensed technology or research (policy section 3.i.iv)
7. Any non-royalty payments or entitlements to payments in connection with the research that are not directly related to the reasonable costs of the research as specified by the research agreement between the sponsor and institution (policy section 3.i.v)
8. Service as an officer, director, or any other fiduciary role for a financially interested company whether or non-remuneration is received (policy section 3.i.vi)
9. None of the above.

If you have checked any of items 3-8, please identify by item # and describe below the source and monetary amount:

By submitting this form, I hereby acknowledge that I have reviewed a copy of the TTUHSC Conflict of Interest in Research policy (HSC OP 73.09), that I have read and understand this policy, and that the aforementioned facts and situations are an accurate and complete representation of my professional relationships and interest external to my position at TTUHSC.

Please send this completed form to Catherine.Smith@ttuhsc.edu, Stop 6271.

Signature

Date

Printed Name



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

Operating Policy and Procedure

HSC OP: 10.08, **Ethics Policy**

PURPOSE: The purpose of this Health Sciences Center Operating Policy and Procedure (HSC OP) is to publish the ethics policy for faculty and staff as required by the Texas State Legislature and adopted by the Board of Regents at their August, 1995 meeting and to establish standards of conduct consistent with the ethics policy. The principles and guidelines contained in this policy apply to all persons employed by TTU and TTUHSC without regard to rank or position. Each employee should be familiar with this document.

REVIEW: This HSC OP will be reviewed on April 1 of each even-numbered (ENY) by the Senior Associate General Counsel, the Institutional Compliance Officer, the Executive Vice President for Finance and Administration, and the Executive Vice President for Academic Affairs, with recommendations for revisions forwarded to the President by May 1.

POLICY/PROCEDURE:

1. **Introduction.** It is important that the people of the State of Texas have complete confidence in the integrity of their public servants. This need is especially critical in the area of state supported higher education. The responsibility for educating and training the future leaders of the state and nation carries with it the duty to adhere to the highest ethical standards and principles. The principles and guidelines contained in this policy shall apply to all persons employed by any component institution, agency, or service of TTU/TTUHSC regardless of rank or position. If a topic has also been addressed in other policy statements or manuals of TTU/TTUHSC, the procedures and statements contained therein are hereby reaffirmed and made a part hereof for all purposes. Specifically, applicable TTU/TTUHSC Operating Policies and Procedures should be referenced for further information and/or greater specifics. References to the term "TTU/TTUHSC employees" throughout these documents include all persons employed by TTU/TTUHSC.¹ TTU/TTUHSC employees shall be subject to discipline for violations of this policy.²
2. **Standards of Conduct.** TTU/TTUHSC Officers and Employees should not:
 - a. Accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows, or should know, is being offered with the intent to influence the officer's or employee's official conduct.³
 - b. Accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce him or her to disclose confidential information acquired by reason of the official position.⁴

¹ Abbreviations used in the footnotes are as follows:
 Gov't Code - Texas Government Code
 AA -- Appropriations Act as passed by the 74th Legislature (1995)
 EAO -- Ethics Advisory Opinion (issued by the Texas Ethics Commission)
 PC -- Texas Penal Code, as amended
 Tx. Const. -- Texas Constitution, as amended
 TTU OP -- Texas Tech University Operating Policy and Procedure
 TTUHSC OP -- Texas Tech University Health Sciences Center Operating Policy and Procedure
 U.S.C. -- United States Code

² HSC OP 70.31

³ Gov't Code 572.051 (1).

⁴ Gov't Code 572.051(2).

- c. Accept other appointments or any employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of official duties.⁵
 - d. Make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest.⁶
 - e. Intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or performed official duties in favor of another.⁷
3. **Principles of Ethical Behavior.**⁸ TTU/TTUHSC Officers and Employees:
- a. Shall put forth honest effort in the performance of their duties.
 - b. Shall not make unauthorized commitments or promises of any kind purporting to bind TTU/TTUHSC or any of its components.
 - c. Shall not use their public offices for private gain.
 - d. Shall act impartially and not give preferential treatment to any private or public organization or individual.
 - e. Shall protect and conserve public property and shall not use it for anything other than authorized activities.
 - f. Shall promptly disclose waste, fraud, abuse, and corruption to appropriate authorities.
 - g. Shall adhere to all laws, regulations, and policies that provide equal opportunity for all persons regardless of race, color, religion, sex, national origin, age, or disability.
 - h. Shall endeavor to avoid any actions that would create the appearance that they are violating the law or the ethical standards of TTU/TTUHSC.
4. **Conflict of Interest.**⁹ It is the policy of the State of Texas that state officers and employees may not have direct or indirect interests, including financial and other interests, engage in business transactions or professional activities, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the officer's or employee's duties in the public interest.
5. **Travel.**¹⁰ Heads of agencies shall plan the travel of all employees under their authority so as to achieve maximum savings and efficiency. The meals, lodging, transportation, and incidental expenses of a state employee must be the lowest possible considering all relevant circumstances. Travel expenses may be reimbursed from the appropriations made in the General Appropriations Act only where the purposes of travel performed are clearly for the conduct of the state's official business and in accordance with the legal responsibilities of the state agency. The voucher must contain a brief statement which clearly shows the purpose of the trip and the benefit to the state.

General Provisions - Officers and Employees of Higher Education

- a. None of the monies appropriated in the General Appropriations Act may be expended for official travel expense incurred by members of governing boards, executive and administrative heads, by any employee of state agencies of higher education except for official business as approved by the appropriate governing board.

⁵ Gov't Code 572.051(3).

⁶ Gov't Code 572.051(4).

⁷ Gov't Code 572.051(5).

⁸ For more information, see *Regents' Rules*, Section 03.01

⁹ Gov't Code 572.001(a); TTU OP 322.33

¹⁰ TTU OP's 79.01-79.12; TTUHSC OP's 79.01-79.10

- b. A state employee may receive reimbursement for meals, lodging, transportation, and incidental expenses **only** when the purpose of travel clearly involves official state business and is in accordance with legal responsibilities of the employing state agency (TTU/TTUHSC).
- c. For the purpose of either in-state or out-of-state travel, however, the respective governing boards may delegate their authority to authorize and approve official travel reimbursements from appropriations made in the General Appropriations Act to presidents, chief executive heads, vice presidents, deans, or fiscal officers of the institution of higher education (TTU/TTUHSC), provided that such delegations of authority shall specify the kind or nature of official travel to be approved and the termination date of such delegated authority, that such delegations are entered in the official minutes of the governing board and that a copy of such delegation is filed with the Comptroller.
6. **Benefits, Gifts, and Honoraria.** A "benefit" is anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare a TTU/TTUHSC employee has a direct and substantial interest.¹¹
- a. **Bribery.** No TTU/TTUHSC officer or employee may solicit, offer, or accept any benefit in exchange for his/her decision, opinion, recommendation, vote, or other exercise of official power or discretion. A benefit that is otherwise allowed by TTU/TTUHSC policy is nevertheless prohibited if it is offered in exchange for official action.¹²
- b. **Prohibited Benefits.** A public servant who exercises discretion in connection with contracts, purchases, payments, claims, and other pecuniary transactions of government, commits an offense if he/she solicits, accepts, or agrees to accept any benefit from any person against any person the public servant knows is interested in or is likely to become interested in any contract, purchase, payment, claim, or transaction involving a TTU/TTUHSC officer or employee's discretion.¹³ The prohibition does not apply to:
- (1) Gifts or other benefits conferred on account of kinship or a personal, professional, or business relationship **independent** of the official status of the recipient;
 - (2) A fee prescribed by law to be received by a public servant or any other benefit to which he/she is lawfully entitled or for which he/she gives legitimate consideration in capacity other than as a public servant;
 - (3) A gift, award, or memento that is received from a lobbyist who is required to make reports under Chapter 305 of the Government Code; and,
 - (4) Items having a value of less than \$50, not including cash or negotiable instruments. A TTU/TTUHSC officer or employee who receives an unsolicited benefit that he/she is prohibited from accepting by law may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.
- c. **Food, Lodging, Transportation, and Entertainment Received as a Guest.** A public servant may accept food, lodging, transportation, or entertainment from persons or entities he/she knows or reasonably should know, are interested in or likely to become interested in a contract, purchase, payment, claim, decision, or transaction involving the exercise of the public servant's discretion only if the public servant is a "guest" as defined by Texas law. A public servant is a "guest" if the person or a representative of the entity providing the food, lodging, transportation, or entertainment is present at the time the food, lodging, transportation, or entertainment is received or enjoyed by the public servant. Public servants are required to report any such benefits valued at over \$250 on

¹¹ PC 36.01(3)

¹² PC 36.02; EAO 130

¹³ PC 36.08(d); PC 36.10(a)(1), (2), (5), (6); EAO 130.

their annual disclosure statements filed with the Texas Ethics Commission.¹⁴

- d. **From Friends, Relatives, and Associates.** Public servants may accept benefits from personal friends, relatives, or business associates with whom they have a relationship *independent* of their official status, so long as the benefit is not offered in exchange for official action or decision.¹⁵
- e. **Awards.** Public servants may accept plaques and similar recognition awards.¹⁶
- f. **Honoraria.** Public servants may not solicit, accept, or agree to accept an honorarium in consideration for services they would not have been asked to provide but for their official position or duties. This prohibition includes a request for or acceptance of a payment made to a third party if made in exchange for such services. However, they may accept the direct provision of or reimbursement for expenses for transportation and lodging incurred in connection with a speaking engagement at a conference or similar event. Meals provided as a part of the event or reimbursement for actual expenses for meals may also be accepted. Participation by a public servant must be more than merely perfunctory.¹⁷

7. Political Activities.

- a. **Use of TTU/TTUHSC Funds or Property.** No public servant shall expend or authorize the expenditure of any TTU/TTUHSC funds for the purpose of influencing the outcome of any election, or the passage or defeat of any legislative measure.¹⁸
- b. **Political Contributions.** Public servants may make personal contributions to candidates for office and political organizations, with one exception. A public servant may not expend more than \$100 for the cost of correspondence to aid or defeat the election of a Speaker of the House of Representatives candidate.¹⁹

8. Use of Authority.

- a. **Misapplication of Property.** It is a violation of state law for a public servant, acting with the intent to obtain a benefit or with intent to harm another, to intentionally or knowingly misapply any other thing of value belonging to the government that comes into the public servant's custody or possession by virtue of his/her office.²⁰
- b. **Misuse of Official Information.** It is a violation of state law for a public servant if, in reliance on information to which he/she has access in his/her official capacity and which has not been made public, he/she (1) acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information; or, (2) speculates or aids another to speculate on the basis of the information.²¹

9. Sexual Harassment.

- a. It is the policy of TTUHSC to maintain a workplace environment that is free of sexual harassment and intimidation.
- b. It is a violation of Title VII of the Civil Rights Act of 1964 to engage in sexual harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical

¹⁴ PC 36.10(b); EAO 130

¹⁵ PC 36.10(a) (2); EAO 130

¹⁶ EAO 36

¹⁷ PC 36.07; EAO 17, 19.

¹⁸ AA IX(5), IX(135); EAO 45; TTU OP 10.11; TTUHSC OP 50.14

¹⁹ Gov't Code 302.019(b); EAO 24

²⁰ PC 39.02(a) (2)

²¹ PC 39.06(a) (1), (2)

conduct of a sexual nature constitute sexual harassment when:²²

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment;
 - (2) Submission to or rejection of such conduct is used as the basis for employment decisions; or,
 - (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
10. **Nepotism.** Employees are prohibited from appointing, voting for, or confirming the appointment of any person related to such employee within the third degree by consanguinity (blood) or within the second degree by affinity (marriage) when the salary or compensation for such person is to be paid from public funds. Relatives within the third degree by consanguinity include an employee's parent, child, grandparent, sibling, grandchild, great-grandparent, uncle, aunt, nephew, niece, and great-grandchild. Relatives within the second degree by affinity include employee's spouse; the spouse's parents, grandparents, and siblings; the employee's son- or daughter-in-law; and the employee's grandchild's spouse. In addition, employees may not take such action on behalf of any individual who is related to any employee within such degrees. These prohibitions do not apply if the person who is related to the employee has been continuously employed in the office or position for at least thirty days prior to appointment or employment of the employee. If the related person continues in such a position, the employee may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the related individual if that action applies only to that individual and is not taken regarding a bona fide class or category of employees.²³
11. **Affirmative Action.** TTU/TTUHSC officers and employees will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, physical or mental disability, Vietnam Era or Special Disabled Veteran Status. TTU/TTUHSC personnel will take affirmative action to provide a non-discriminatory application process. Such action shall include, but not be limited to the following employment transactions: upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-off or termination; rate of pay or other forms of compensation; and, selection for training, including apprenticeship.²⁴
12. **Private Use of University Facilities, Equipment, Supplies and Services is Prohibited.**
- a. It is the intent of the Texas Constitution and the Board of Regents that University facilities, equipment, supplies and services are to be used only for duly authorized University purposes. Accordingly, the use of University-owned resources or resources for which the University has acquired stewardship responsibilities in which title is vested to others, including but not limited to, buildings, equipment, materials, supplies, telephones, utilities and services of University personnel for personal purposes, is prohibited. Furthermore, equipment the University owns or for which it is responsible shall not be removed from the University premises, except in accordance with TTUHSC OP 61.01 (4) in order to accomplish TTUHSC business "at home."
 - b. **Services of Personnel.** The use of University personnel for personal work is strictly prohibited. This work includes, but is not limited to, typing and secretarial services on personal and/or private consulting correspondence, running personal errands, and other like personal services.²⁵
13. **Prevention of Fraud, Waste and Abuse in the Provision of Health Care Services and Items.** It is the policy of TTUHSC to follow all federal and state laws, regulations, policies and procedures, and private payer contractual obligations pertaining to the provision and billing of

²² TTU OP 10.09, 70.31; TTUHSC OP 70.14, 70.31; 42 U.S.C. § 2000e-2

²³ TTU OP 70.08; TTUHSC OP 70.08; Gov't Code 573.023, 573.025, 573.041, 573.062.

²⁴ TTU OP 40.01; TTUHSC OP 51.01

²⁵ TTU OP 61.01; TTUHSC OP 61.01

health care services and items. TTUHSC has established a Billing Compliance Program, which includes monitoring and auditing processes to detect non-compliance with these requirements. Failure or refusal to comply with these requirements can result in discipline in accordance with TTUHSC's Billing Compliance Program and/or TTU/TTUHSC policies. In addition, failure or refusal to comply may result in civil fines and/or criminal penalties under various federal and state laws, outlined below. For purposes of this standard, "knowingly" is defined as having actual knowledge or acting with deliberate ignorance (conscious indifference under Texas law) or in reckless disregard of the truth or falsity of the information contained in a claim or statement.²⁶

- a. **Federal False Claims and Statements Act.**²⁷ It is a violation of law to knowingly make, present, submit or cause to be made, presented or submitted to the government, a false, fictitious or fraudulent claim or written statement. This includes claims that:
- (i) include or are supported by written statements that are false, fictitious or fraudulent due to the omission of material facts that the person has a duty to include. e.g., failure to document teaching physician services provided to a Medicare patient; or
 - (ii) are for payment of services that were not provided, e.g., billing Medicare for laboratory services that were not provided.

Civil penalties of up to \$5,000 may be imposed for each violation plus two times the amount of any paid claim. In addition, violations may result in exclusion of TTUHSC or its officers or employees from participation in federal health care programs, including, but not limited to Medicare, Medicaid, CHAMPUS and VA.

- b. **Federal False Claims Act.**²⁸ It is unlawful to knowingly make, cause to be made or use a:
- (i) false or fraudulent claim to a government payer for payment or approval, e.g., submit a claim for a consult service when an office visit was provided;
 - (ii) false record or statement to get a false or fraudulent claim paid, e.g., signing blank home health certification forms; or
 - (iii) false record or statement to avoid or decrease an obligation to pay money to the government, e.g., fail to refund known overpayments.²⁹

Violations may result in civil penalties ranging from \$5,500 to \$11,000 per claim, plus two to three times the amount of any payment made by the government. The Federal Government, the Texas Attorney General³⁰, or a private individual (qui tam relator/whistleblower)³¹ may file a civil lawsuit against anyone who violates the Federal False Claims Act. If the government or private individual prevails, a portion of the money awarded by the court may be received by the whistleblower.

- c. **Texas Laws Regarding Health Care Fraud.**³² It is a violation of Texas law to knowingly:
- (i) present or cause to be presented a claim that contains a false statement or representation;³³
 - (ii) make or cause to be made a false statement or misrepresentation of a material fact to receive payment from Medicaid that is not authorized or that is greater

²⁶ Texas Human Resources Code 36.0011.

²⁷ 31 USC §3802

²⁸ 31 USC §3729-3733

²⁹ 31 USC §3729(a)

³⁰ Texas Human Resources Code 36.055

³¹ 42 USC §3730

³² Texas Human Resources Code 36.001-36.117, and Texas Human Resources Code 32.039-32.0391

³³ Texas Human Resources Code 32.039

than the payment authorized, e.g., billing a consultation service when a regular office visit was provided;

- (iii) make, induce or cause to be made or induced a false statement or misrepresentation of a material fact regarding information required to be provided by a federal or state law, rule, regulation or provider agreement, e.g., using the wrong place of service on the CMS 1500 form filed to Medicaid;
- (iv) provide an item or service without the proper license when a license is required to provide that item or service, e.g., providing services beyond the scope of the individual's license;
- (v) make a claim for items or services that have not been ordered by the health care provider or that are substantially inadequate or inappropriate when compared with generally recognized standards of the discipline or health care community;
- (vi) omit from the claim form submitted to Medicaid the type and identification number of the licensed health care provider who provided the service;
- (vii) make, use or cause to be made or used to conceal, avoid or decrease an obligation to pay or transmit money to the Texas Medicaid program, e.g., fail to refund known overpayments.³⁴

Each violation may result in refunds of improper payments, two times the amount of any overpayments plus civil penalties of up to \$10,000 (\$5,000-\$15,000 if there is injury to a Medicaid recipient). Violators may be excluded from participation in Medicaid programs and licensed providers who violate these laws risk loss of their professional license. Similar to the Federal False Claims Act, a private individual may file a civil lawsuit against anyone who violates the Texas Medicaid Fraud Prevention Act and receive a portion of any monies awarded by the court.³⁵

³⁴ Texas Human Resources Code 32.002

³⁵ Texas Human Resources Code 36.101 et. seq.



TEXAS TECH UNIVERSITY
HEALTH SCIENCES CENTER

Continuing Medical Education

Disclosure of Relevant
Financial Relationships

Please complete BOTH SIDES of this form

CME Activity Title: _____
 Title of Presentation: _____
 Live Presentation Date: _____ -or- Enduring Materials
 Please indicate your role in this CME activity: Presenter Author Course Director Moderator
 Planning Committee Member
 Name: _____ Title: _____
 Phone: _____ E-mail: _____

DISCLOSURE

YES NO Have you (or your spouse/partner) had a personal financial relationship in the last 12 months with the manufacturer of the products or services that will be presented in this CME activity?
 If NO, skip to Off Label Disclosure section on back. If YES, please list your disclosures and resolutions below.

First, list the names of proprietary entities producing health care goods or services, with the exception of non-profit or government organizations and non-health care related companies with which you or your spouse/partner have, or have had, a relevant financial relationship within the past 12 months. For this purpose we consider the relevant financial relationships of your spouse or partner that you are aware of to be yours.

Second, describe what you or your spouse/partner received (e.g. salary, honorarium etc.). TTUHSC does NOT want to know how much you received.

Third, describe your role.

Commercial Interest	Nature of Relevant Financial Relationship (Include all those that apply)	
	What was received	For What Role?
Example: Company X	Honorarium	Speaker

I do not have any relevant financial relationships with any commercial interests.

Signature _____

Date _____

Example terminology

What was received: Salary, equity, intellectual property rights, consulting fees, honoraria, ownership interest (e.g. stocks, stock options or other ownership interest, excluding diversified mutual funds) or other financial benefit.
 Role(s): Employment, management position, independent contractor (including contracted research), consulting, speaking and teaching, membership on advisory committees or review panels, board membership, and other activities (please specify).

Glossary of terms can be found on the back.

RESOLUTION OF CONFLICT OF INTEREST	
Please indicate below how the conflict(s) of interest will be resolved.	
<input type="checkbox"/>	I will support my lecture and advice recommendations with the "best available evidence" from the medical literature.
<input type="checkbox"/>	I will refrain from making recommendations regarding products or services, e.g., limits to cardiophysiology, to agree with and/or research findings.
<input type="checkbox"/>	I will recommend or advise as a speaker for this topic for the planning committee's consideration.
<input type="checkbox"/>	I will submit my talk in advance to allow for adequate peer review.
<input type="checkbox"/>	I will divest myself of a financial relationship.
<input type="checkbox"/>	Planners - To the best of my ability I will ensure that any speakers or content I suggest is independent of commercial bias.

Glossary of Terms

Commercial Interest

The ACCME defines commercial interest as any proprietary entity producing health care goods or services, with the exception of non-profit or government organizations and non-health care related companies.

Financial relationships

Financial relationships are those relationships in which the individual benefits by receiving a salary, royalty, fee, actual property rights, consulting fee, honoraria, ownership interest (e.g., stocks, stock options or other ownership interest, including diversified mutual funds), or other financial benefit. Financial benefits are usually associated with roles such as employment, management position, independent contractor, owning contracted research, consulting, speaking and teaching, membership on advisory committees or review panels, board membership, and other activities from which remuneration is received, or expected. ACCME considers relationships of the person involved in the CME activity to include financial relationships of a spouse or partner.

Relevant financial relationships

ACCME focuses on financial relationships with commercial interests in the 12-month period preceding the time that the individual is being asked to assume a role involving content of the CME activity. ACCME has not set a minimal dollar amount for relationships to be significant. Inherent in any amount is the incentive to maintain or increase the value of the relationship. The ACCME defines "relevant financial relationships" as financial relationships in any amount occurring within the past 12 months that create a conflict of interest.

Conflict of Interest

Circumstances create a conflict of interest when an individual has an opportunity to affect CME content about products or services of a commercial interest with which he/she has a financial relationship.

Disclosure of Off Label or Unapproved Products

If any unapproved or off-label uses of products will be discussed, disclosure must be made to the participants regarding the unapproved or off-label uses.

Will you potentially discuss any unapproved or off-label uses of products?	
Check one: YES	NO

If you will be discussing any such uses, please indicate the products to be discussed and the unapproved/off-label uses. If any other discussion of unapproved or off-label uses of products takes place during your presentation, you are advised that you must disclose this information to the attendees.

Product to be discussed	Unapproved or off-label usage

Signature _____
Date _____

Your cooperation in complying with these standards is appreciated. This form should be returned to:
Texas Tech University Health Sciences Center, Office of Continuing Medical Education,
4800 Alberta Avenue, El Paso, Texas 79905