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	Issued: October 2015 Revised:	Policy Contact: Director, Office of Compliance and Policy compliance@mines.edu

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1.0 BACKGROUND AND PURPOSE


This policy is promulgated by the Colorado School of Mines Board of Trustees (Board) pursuant to the authority conferred upon it by §23-41-104, C.R.S., to set forth a policy regulating the disclosure and resolution of Potential or actual Conflicts of Interest affecting Mines’ faculty. This policy supersedes any previously promulgated Mines policy that is in conflict herewith. The purpose of the policy is to address situations in which interests or activities may conflict with a faculty member’s teaching, research, scholarship and service responsibilities at Mines. Conflicts may compromise the objectivity of faculty in the course of fulfilling their Mines’ responsibilities, and diminish public confidence in Mines, including the research outcomes and scholarship attributed to Mines’ faculty. Further, Mines’ facilities are State resources, and their use for inappropriate, private gain must be avoided.

This policy addresses two distinct categories of Conflict of Interest (COI) that may affect individuals employed by Mines. The first type addresses conflicts that may arise in the context of faculty members’ Institutional Responsibilities. The second type involves the use of Mines’ facilities or equipment by a faculty member in connection with private consulting work, or in the performance of work advancing the faculty member's own private interests.

2.0 POLICY

As described in the Faculty Handbook (Section 6), all Mines faculty are required to disclose a COI, including a Potential COI, within 30 days of the faculty member’s hire date. Thereafter, each faculty member shall disclose in writing at least annually, through the prescribed process, any COI or Potential COI, and at least 30 days in advance of undertaking any new external commitment, including professional consulting and non-remunerative activities, and/or acquiring new significant financial interests.

In addition, all faculty members who intend to engage in Mines research funded by external sponsors shall disclose, in accordance with appropriate provisions of this policy, any Significant Financial Interest (SFI) he or she may possess, including those of their

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Immediate Family, which a reasonable person may perceive to be affected by the research he or she intends to perform.

All COI disclosures shall be evaluated and managed by the Mines designated Institutional Official(s) in accordance with the provisions outlined in this policy. The failure of a faculty member to disclose a significant COI and other violations of this policy shall constitute grounds for discipline.

3.0 PROCEDURES

3.1 Faculty Responsibilities

3.1.1. Faculty Disclosure Obligation

Each faculty member shall submit a Disclosure as prescribed by Faculty Handbook Section 6. The Disclosure shall include any SFI of the faculty member or their Immediate Family member if it reasonably appears to be related to the faculty member's Institutional Responsibilities.

3.1.2. Investigator Confirmation for Research

All Investigators shall ensure the Disclosure form filed with Mines is current and complete for all of their SFIs at the proposal formulation stage of each sponsored research project in which they intend to participate, and prior to the expenditure of any research funds. This obligation shall continue thereafter during all stages of a research project.


3.1.3. Investigator Training

Faculty must complete training related to this policy within 30 days of the faculty member's arrival at Mines. Further, the faculty member must complete COI training prior to engaging in any research project, and a refresher training program at least every four (4) years thereafter. Additional training may be required in the event this policy is revised, or if Mines determines that a faculty member is not in compliance with this policy or an approved conflict Management Plan.

3.2 Mines Responsibilities

3.2.1. Designated Official

Mines' Director of the Office of Compliance and Policy shall serve as the Institutional Official and repository of annual COI disclosures. The records are

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considered confidential to the extent that they may be retained as confidential by Mines. Only limited access will be granted for the purposes of reviewing, evaluating, managing, and/or reporting Disclosures as required by federal law or research agreements.

The Institutional Official must review all faculty Disclosures to determine whether a SFI exists, whether the SFI relates to a specific research project, and whether the SFI should be deemed a potential Financial COI (FCOI). If a potential FCOI exists, the Institutional Official must refer it to the Conflict of Interest Committee, defined in the Faculty Handbook (Section 12), to determine what actions should be taken to manage, reduce, or eliminate the FCOI.

3.3. ORA Responsibilities

During the research proposal submission process, the Office of Research Administration (ORA) shall review the Investigators' compliance with this policy and collect the required verification that no conflict currently exists for each Investigator. If ORA identifies an existing COI or a Potential COI, ORA shall refer the matter to the Institutional Official for review and management. Existence of a Disclosure identifying a SFI for an Investigator at the time of proposal or thereafter does not mean that the grant or contract will not be accepted by Mines. However, such Disclosure must be reviewed and managed in order to begin a funded sponsored project, prior to the expenditure of funds by the Investigator.


ORA is responsible for taking reasonable steps to ensure that sub-recipients of awards to Mines comply with this policy or the relevant conflicts policies of the research sponsor.

3.4. Conflict of Interest Committee

The Conflict of Interest Committee, hereinafter the "Committee", is defined in section 12.14 of the Faculty Handbook. The Committee shall review any COI referred to it by the Institutional Official and perform other related duties that have been assigned to it under this policy.

3.4.1. Committee Responsibilities

The Committee shall review each Disclosure that has been forwarded to it by the Institutional Official to confirm whether a COI exists and what conditions or restrictions, if any, should be imposed by Mines to manage, reduce, or eliminate such COI. A COI exists when the Committee reasonably determines that a SFI could directly and significantly affect a faculty member's Institutional Responsibilities or the design, conduct or reporting of a specific research project.

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As part of its deliberations performed pursuant to this policy, the Committee members may interview the faculty member, investigators or other participants in the research project, discuss the situation with appropriate Mines personnel or outside experts, and request the production of any relevant documents for their review.

3.4.2. Management


If the Committee determines the development and implementation of a Management Plan is necessary, the Committee shall specify actions that have been and will be taken to manage the conflict. Examples of conditions or restrictions that might be imposed to manage, reduce, or eliminate a COI include, but are not limited to: (i) public disclosure of the conflict (e.g., when presenting or publishing the research); (ii) monitoring of research by independent reviewers; (iii) modification of research plans; (iv) disqualification from participation in portions of the activity that could be affected by the conflict; (v) reduction or elimination of SFIs (e.g., divestiture or sale of an equity interest); (vi) severance of relationships that create the COI; or (vii) in the case of human subject research, disclosure directly to the participants in the research project.

If the Committee determines that imposing conditions or restrictions would be either ineffective or inequitable, and the potential negative consequences that might arise from the COI are outweighed by interests of scientific progress, technology transfer, or the public health and welfare, the Committee may recommend that the research or other institutional activity be permitted to go forward without the imposition of any conditions or restrictions.

3.4.3. Timing

Unless a shorter time frame has been requested by the faculty member and approved by the Committee, or an extension of time is requested by the Committee and granted by the Provost or area Vice President (hereafter "Provost"), the Committee shall conclude its deliberations and forward a written report that includes a recommended course of action, the basis or rationale for the recommendation, and the entire document file upon which the Committee has based its recommendation to the Provost for decision within thirty (30) calendar days from the initiation of the Committee's deliberations. If the final due date falls on a Saturday, Sunday, or recognized Mines holiday, the next business day shall be the due date for the decision.

3.4.4. Decision

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The Provost shall review the document file and the recommendation of the Committee, interview the affected faculty member, the Committee, and others, if deemed appropriate, and issue a decision resolving the matter within a reasonable time after delivery of the Committee's recommendation and supporting documentation. Unless unusual circumstances exist, a reasonable time for the Provost to issue a decision should not exceed fifteen (15) calendar days. If the final due date falls on a Saturday, Sunday, or recognized Mines holiday, the next business day shall be the due date for the decision.

3.4.5. Appeals

Any faculty member who is dissatisfied with the the Provost's decision may file a written appeal to the President within ten (10) calendar days of his or her receipt of the decision. If the final date for appealing the decision falls on a Saturday, Sunday, or recognized Mines holiday, the next business day shall be the last date to file an appeal. The appeal must be made in writing.

3.4.6. Final Decision


If the appeal is filed in a timely manner, the President shall review the appeal, the recommendation of the Committee, and the decision of the Provost, interview the affected faculty member, the Committee, and others, if deemed appropriate, and issue a decision resolving the matter within a reasonable time after receipt of the appeal. Unless unusual circumstances exist, a reasonable time for the President to issue a decision should not exceed fifteen (15) calendar days. Decisions of the Provost that are not appealed and all decisions of the President shall constitute final Mines decisions under this policy.

3.4.7. Retrospective Reviews

The Institutional Official will request the Committee retrospectively review a faculty member's SFI when it is not identified or timely managed due to one of the following situations:

- i. Failure by the faculty member to disclose a SFI that is determined by Mines to constitute a FCOI;
- ii. Failure by Mines to review or manage such a FCOI; or
- iii. Failure by the faculty member to comply with a FCOI Management Plan.

A retrospective review of a FCOI will include a review of all of the faculty member's research project(s) to determine whether any research, or portions thereof, conducted during the period of noncompliance was biased in the design, conduct, or reporting of such research. The Institutional Official, with assistance

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from ORA, shall document all key elements of the review, including the subject research project award number and title, Principal Investigator, Investigator with the FCOI, entity related to the FCOI, reasons for the Committee’s review and its methodology, and the Committee’s findings and conclusions.

3.4.8. Notification of Funding Agency

If Mines determines through its process that a FCOI exists, then Mines, through the ORA and the Institutional Official, will notify the funding agency per the terms and conditions of the grant or contract for sponsored research.

If Mines determines through its process that a FCOI exists under the terms and conditions of a grant or contract for sponsored research, but decides to allow proposed research to proceed without imposing conditions, restrictions, or the elimination of such conflict, then Mines, through the ORA and the Institutional Official, shall inform the appropriate representatives of the funding agency of its determination and the basis for such determination.

If Mines identifies a FCOI through a retrospective review, the funding agency shall be promptly notified by ORA and the Institutional Official. Such notification shall include all items outlined in this procedure and a description of the impact of the bias in the design, conduct or reporting of the research.

3.4.9. Record Keeping


Mines shall maintain copies of records of all Disclosures and Management Plans, including all actions taken to resolve or manage a COI, for at least three (3) years beyond the termination or completion dates of the research projects to which they relate, or until final resolution of any administrative or legal action involving the records, whichever period is longer.

3.4.10. Transparency

This policy will be posted publically on the Mines website. Information concerning the SFIs determined to constitute FCOIs shall be retained by Mines and available for at least three (3) years from the date the information was updated. Requests for such information must be made in writing to the Policy Contact.

4.0 USE OF MINES PROPERTY FOR PRIVATE PURPOSES

4.1 General

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A faculty member who desires to utilize any Mines-owned facility, equipment or supplies in projects funded independently from Mines, in connection with private consulting work, or in the performance of research advancing the faculty member's own private interests, shall, prior to such use, obtain Mines' approval in accordance with this policy. All requests of this nature shall be evaluated and resolved by the designated Mines representative(s) in accordance with appropriate provisions of this policy. This policy does not cover research endeavors falling within the scope of an individual's employment. The use by a faculty member of any Mines-owned research facility, equipment, or supplies in projects funded independently from Mines, in connection with private consulting work, or in the performance of research advancing the faculty member's own private interests without obtaining Mines' approval shall constitute grounds for disciplinary action.

4.2 Approval Procedures

4.2.1. Request for Permission


A faculty member shall request permission by completing, executing, and submitting a Facilities and Equipment Utilization Form through his or her department head. In cases in which the requesting party does not report to a department head or the department head is the requesting party, the faculty member shall submit the completed form to his or her immediate supervisor.

4.2.2. Department Head or Supervisor Responsibilities

Mines department heads or supervisors shall review all completed Facilities and Equipment Utilization Forms received, indicate their written approval or disapproval of each request, and promptly forward all forms to the Institutional Official for further review.

4.2.3. Institutional Official Responsibilities

The Institutional Official, in conjunction with the Export Control Designated Official, shall review each Facilities and Equipment Utilization Form to determine whether sufficient Mines interest exists to justify the proposed usage, whether any laws, regulations, other Mines policies or contractual obligations prohibit or restrict the proposed usage, and the fees, if any, to be charged for the proposed usage, if approved. As part of their review, the Officials may interview the individual requesting permission and other participants in the proposed project, confer with appropriate Mines personnel or outside experts, and request production of any relevant documents. The Officials shall prepare a written report that includes a recommended course of action and the basis or rationale for the recommendation, and forward this report and the entire document file

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upon which the recommendation is based to the Provost or area Vice President (hereafter “Provost”).

4.2.4. Review Decision

The Provost shall review the document file and the recommendation of the Officials, interview the requesting party, the Officials, and others, if deemed appropriate, and issue a decision resolving the matter within a reasonable time after delivery of the Officials’ recommendation and supporting documentation.

4.2.5. Appeals

A requesting party who is dissatisfied with the decision of the Provost may file a written appeal to the President within ten (10) days of his or her receipt of the Provost's decision.

4.2.6. Final Decision of Mines

The President shall review the document file, the recommendation of the Officials, and the decision of the Provost, interview the requesting party, the Officials, and others, if deemed appropriate, and issue a decision resolving the matter within a reasonable time after receipt of the appeal. Decisions of the Provost that have not been appealed and all decisions of the President shall constitute final decisions of Mines under this policy.


5.0 ENFORCEMENT

All faculty members are expected to comply with the requirements of this policy and all obligations imposed hereunder. Members of the Mines community are encouraged to report violations of this policy, which shall be investigated pursuant to the appropriate Mine policies and procedures. Violators of this policy may be subject to disciplinary actions and sanctions that may include, but are not limited to, reprimand, suspension of research privileges, suspension or leave without pay, and termination for cause.

6.0 DEFINITIONS

For the purposes of this policy, the following definitions apply, including:

Conflict of Interest is a situation in which financial or other personal considerations have the potential to compromise or bias professional judgment and objectivity. A **Potential Conflict of Interest** is a situation in which a reasonable person would think that the professional’s judgment is likely to be compromised. A Potential Conflict of Interest may develop into an actual Conflict of Interest. A Conflict of Interest arises when a faculty member has or represents a Significant Financial Interest that competes with,

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or is adverse to the individual's Institutional Responsibilities. Where a personal bias or consideration does or has the potential to compromise the faculty member's professional judgment, the conflict that arises may adversely impact the institution's research, instructional or administrative programs or operations. See Faculty Handbook Section 6 for further explanation.

Disclosure means a written communication from the faculty member to Mines regarding his or her Significant Financial Interest.

Faculty means any personnel who must comply with the Faculty Handbook.

Financial Conflict of Interest (FCOI) means when Mines, through its Institutional Official, reasonably determines that an faculty member has a Significant Financial Interest that could directly and significantly affect the design, conduct, or reporting of a research project.

Institutional Responsibilities means the faculty member's professional responsibilities on behalf of Mines, and typically refers to the performance of duties related to for research, scholarship, education, and service. Examples may include activities such as research, research consultation, teaching, work on scholarly publications, and service on institutional committees.


Immediate Family means the immediate family members of a faculty member and includes the faculty member's spouse, domestic or civil union partner, and dependent children.

Investigator includes the principal investigator or project director of a research project, each co-principal investigator or co-investigator of a research project, and any other employee, collaborator, consultant, volunteer, etc., who is responsible for designing, conducting, or reporting the research at issue.

Management Plan means a plan of action adopted by the faculty member and the COI Committee to manage any identified actual or Potential Conflict of Interest in order to reduce or eliminate such Conflict of Interest.

Mines-Owned Equipment or Supplies means any personal property or fixture of greater than nominal value that has been acquired by Mines, or by the State of Colorado for the benefit of Mines, whether such property was acquired by lease, purchase, donation, gift, or in conjunction with a sponsored research project.

Mines-Owned Research Facility means any office, classroom, laboratory, or other facility used for scientific testing, measurement, or experimentation that is owned or leased by Mines, or by the State of Colorado for the benefit of Mines, whether or not

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such facility is located on the Mines campus.

Significant Financial Interest (SFI) means financial interests of the faculty member (including those of the Immediate Family, separately or in conjunction with the faculty member), including anything of monetary value, whether or not the value is readily ascertainable, and reasonably appears to be related to the faculty member’s Institutional Responsibilities. *SFIs include, but are not limited to:*

- i. salary or other payments for services, such as consulting fees or honoraria that, when aggregated for the preceding 12-month period, exceed \$5,000 in value;
- ii. equity interests, such as stocks, stock options, or other ownership interests in publicly traded corporations or privately owned interests, that, when aggregated for the preceding 12-month period, exceed either \$5,000 in value or 5% ownership interest in any single entity;
- iii. intellectual property rights, such as patents, copyrights, and royalties upon receipt of income related from such rights; and
- iv. reimbursement for sponsored travel that is paid directly to the faculty member when the travel is related to their Institutional Responsibilities. (This does not include travel reimbursed or sponsored by public or non-profit entities.)

Significant Financial Interest shall not include:

- i. salary, royalties from Mines owned intellectual property, or other remuneration from Mines (if the faculty member is currently employed or appointed by Mines);
- ii. income from seminars, lectures, or teaching engagements sponsored by public or non-profit entities;
- iii. income from service on advisory committees or review panels for public or non-profit entities;
- iv. equity interests that, when aggregated for the faculty member or their Immediate Family for the preceding 12-month period, do not exceed \$5000 in value as determined through reference to public prices or other reasonable measures of fair market value, and do not represent more than a 5% ownership interest in any single entity;
- v. salary, or other payments that, when aggregated for the faculty member or their Immediate Family, have not exceeded \$5000 during the preceding 12-month period and are not expected to exceed \$5000 during the coming 12-month period;
- vi. interest or equity in mutual or pooled funds that the faculty member does not have direct control over; and
- vii. Small Business Innovation Research/Small Business Technology Transfer Program (SBIR/STTR) Phase I funding may be excluded from the Disclosure, but not Phase II funding.

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7.0 REFERENCES

NSF 08-1, Award & Administration Guide, Grantee Standards, Conflict of Interest Policies http://www.nsf.gov/pubs/policydocs/pappguide/nsf08_1/aag_4.jsp ;
 or 2005 NSF Grants Policy Manual, Grantee Standards,
http://www.nsf.gov/pubs/manuals/gpm05_131/gpm5.jsp#510

NIH, NIH Grants Policy & Guidance <http://grants.nih.gov/grants/policy/coi/> ; and
 NIH FAQs on Financial Conflict of Interest
http://grants.nih.gov/grants/policy/coi/coi_faqs.htm#A

2 C.F.R. 200 “Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards”

Mines Faculty Handbook Sections 6 and 12

8.0 HISTORY

Faculty Handbook Section 10.4 promulgated by the CSM Board of Trustees on June 12, 1997 and Amended by the CSM Board of Trustees on June 22, 2000;
 Amended and converted to CSM Board of Trustees policy on October 30, 2015.