

**MILLERSVILLE POLICY FOR
MANAGEMENT OF CONFLICTS OF INTEREST
at PASSHE UNIVERSITIES**

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<p style="text-align:center">MILLERSVILLE POLICY FOR MANAGEMENT OF CONFLICTS OF INTEREST at PASSHE UNIVERSITIES</p>
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I. Introduction

a. General Policy

Conducting high quality research and instructional activities is integral to the primary mission of the Millersville University of Pennsylvania. Active participation by faculty and other employees in external activities that enhance their professional skills or constitute public service can be beneficial to the University as well as the individual.

Thus, policy should encourage both public and private support for research and innovative educational programs through grants and contracts. Similarly, Millersville University recognizes the value of outside consulting by faculty and other employees, both to the community and to the faculty/employees, but cautions such consulting can come into conflict or appear to come into conflict with other legitimate University interests.

The purpose of this policy is to provide the members of this academic community a framework to *promote quality and objectivity in ---*

- A) *research by establishing standards to ensure that the design, conduct or reporting of research will NOT be biased by any conflicting financial interests of an investigator.*
- B) *education by establishing standards to ensure that instruction and curriculum are NOT biased or deficient due to conflicting personal or financial interests.*
- C) *management of the universities affairs to ensure that the institutions resources are expended in a manner that does NOT promote personal financial interest of faculty or staff above that of the University.*

The guidelines provide a framework to manage, reduce or eliminate conflicts of interest in research, education, and service activities. These policies protect the credibility and integrity of faculty and staff, so that public trust and confidence in the sponsored activities is ensured. It is also intended that any such action be in accordance with applicable federal and state law as well as Collective Bargaining Agreements.

These guidelines are consistent with all applicable Collective Bargaining Agreements.

b. Scope

This policy is intended to carry out the University's responsibilities for all research including, but not limited to, federal, state, local and private grant opportunities. This policy is also intended to provide guidance for complying with the Pennsylvania Ethics Act and provisions of federal Circular A-110. This policy applies to all faculty and staff employed by the University.

A potential Conflict of Interest occurs when there is a divergence between an individual's private interests and his or her professional obligations to the University such that an independent observer might reasonably question whether the individual's professional actions or decisions are determined by considerations of personal gain, financial or otherwise. An actual Conflict of Interest depends on the situation and not on the character or actions of the individual.

Potential conflicts of interest or the appearance of conflicts of interest may be complex and may involve many different considerations. These include both ethical and financial considerations; priorities in distribution of time and effort; guidance of students' research; guidance of contractual research; consulting; contractual obligations to research sponsors, both governmental and private; and access to privileged information. Federal and state regulations also address the role of the spouse and of dependent children as potential sources of Conflict of Interest. These diverse considerations and the many interactions among them must be addressed in light of the University's designated missions. Even when behavior itself is exemplary, the appearance of Conflict of Interest should be avoided.

Both outside consulting and outside research support lead inevitably to awareness of privileged information on research, business, and timing objectives and on progress toward these objectives. University employees should not use their knowledge of privileged information for personal gain and should not disclose such information to third parties. Further, to avoid potential adverse publicity and negative consequences to the University, to research sponsors, or to users of consulting services, privileged information should not be disclosed even when personal gain is not involved.

Conflict of Interest may take the form of conflict of commitment. In recognizing commitments and in setting priorities it must be stressed that the employee's first responsibility is to the University and its educational mission. Even with such understandings in place, attempts of faculty and staff to balance University responsibilities with external activities--such as consulting, public service or pro bono work--can result in conflicts regarding allocation of time and energies. Conflicts of commitment usually involve issues of time allocation. The many diverse demands on an employee's time necessitate setting priorities. Over commitment of time or seriously unbalanced time priorities can lead to Conflict of Interest. Over commitment is of particular concern when it diminishes performance of one's University duties and responsibilities and guidance of student research and when it impairs the University's ability to provide fully the time and quality of effort needed to offer quality education to its students or to meet its responsibilities as specified in research agreements.

Multiple projects in a researcher's field of interest are another potential source of Conflict of Interest. Such efforts can be mutually beneficial, but one project should not be conducted at the expense of another in terms of either human or material resources. To avoid problems in this area, when new research programs are initiated, their objectives should be considered in light of ongoing work. Disclosure of the general research to the Provost is required.

With consultation clients, care should be taken to give advice that is objective and not slanted toward research program goals; conversely, research program goals should not be altered to fill consultation client needs. In short, if consultation clients and research sponsors are each informed of commitments involving the other, these conflicts of interest can be avoided.

In accordance with Federal regulations, the University has a responsibility to manage, reduce, or eliminate any actual or potential conflicts of interest that may be presented by a financial interest of an Investigator. Thus, the University requires that Investigators disclose any significant financial interest that may present an actual or potential Conflict of Interest with a sponsored project.

c. Conflict of Interest Laws

Many of the activities described in the following list are specifically prohibited by federal or state law. Others are situations that are inherently unethical. A Conflict of Interest is a Conflict of Interest even if no wrongdoing actually occurs, and even those examples where no wrongdoing is intended should be

avoided to preclude the perception of wrongdoing and to protect the reputation of the individual and the University.

Generally, the State Adverse Interest Law, 71 P.S. §776.1 et seq., prohibits University employees (including faculty) from entering into contracts with the University in any proprietary capacity or from being a stockholder, partner, member, agent, representative or employee of a corporate entity that enters into contracts with the University. The State Ethics Act, 65 P.S. §401 et seq., generally exempts teaching faculty from its application. However, faculty who administer or monitor grants or subsidies are subject to the provisions of this Act. The Act prohibits a subject employee from using his employment or any confidential information received through his employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated. The Act also prohibits subject employees from accepting an honorarium, which is defined as "payment made in recognition of published works, appearances, speeches and presentations and which is not intended as consideration for the value of such services which are nonpublic occupational or professional in nature".

Furthermore, the Public Health Service, the National Science Foundation and other federal agencies have promulgated regulations that apply to institutions and individual investigators who seek and receive federal grants and contracts. Institutions are required to enforce such rules through written policies and procedures that govern their employees conduct. Investigators are required to comply with these rules as a condition as seeking and administering federal grants and contracts. These rules can be found at Title 42 Part 50 Subpart F.

Finally, as a recipient of federal grants and contracts, the University must maintain standards for all employees engaged in the award and administration of contracts in order to prevent conflicts of interest.

d. Examples of Conflict of Interest/Conflict of Commitment

The following list illustrates some of the most common conflicts of interest as related to both sponsored projects and general conduct. The list is not all encompassing.

Bias in research or instruction or other duties:

1. Using or releasing privileged information for personal or third party gain.
2. Altering the focus of a research program for the benefit of one's outside interests or for financial gain.
3. Compromising the educational benefit of student research to obtain results supporting outside interests.
4. Accepting outside employment that might impair independence of judgment in the performance of University duties and responsibilities.
5. Accepting gratuities or special favors in return for influencing the conduct of research or award of contracts for goods and services.
6. Consulting for one or more government agencies or other contractors in the same technical field as one's current government supported research project, which may result in giving advice of questionable objectivity.

Personal or Financial gains

7. Having personal investments in any business entity that could create a substantial conflict between those private interests and University duties.
8. Using PASSHE facilities and resources (including staff) for private enterprise without fair compensation to the University and prior administrative approval, except when performing scholarly research.
9. Accepting money, goods, services, entertainment, or any form of gratuity either directly or indirectly from any individual or company that has been or may be awarded a contract for goods or services with the University.
10. Obtaining personal gain by influencing purchases of equipment, instruments, etc.
11. Influencing the negotiation of contracts for goods and services for inappropriate personal or third party benefit.
12. Receiving extra compensation for duties that are a normal part of one's job description.
13. Consulting for compensation on any University research project for which one is already being compensated.

Time and effort conflicts:

14. Over-committing time so that one's responsibilities to the University are neglected, or a contract or grant does not receive the time or effort called for by the agreement.
15. Engaging in outside employment that interferes with performance of University obligations

II. Disclosure and Reporting Requirements

a. General Disclosure

As soon as any faculty/staff, student or other person is aware of any actual or potential or appearance of a Conflict of Interest that fall within any of the above definitions, he/she is to notify the Designated University Reviewer. Self-reports are encouraged through a consultative process. Third-party reports shall be accepted through a formal complaint process established by each University, consistent with existing academic integrity policies. The University Reviewer shall ensure follow-up is taken pursuant to **Section III. c. *Managing Conflicts of Interest.***

b. Disclosure for Sponsored Research

With Sponsored Projects, all Investigators specifically named in a proposal are required to report and disclose any potential Conflict of Interest prior to submission of the proposal to the funding agency. Within each University's Sponsored Projects Office, a form will be used that will require University Investigators applying for sponsored projects to indicate whether a potential or actual Conflict of Interest exists involving the grant proposal that is being submitted. The above definitions should guide the Investigator in this determination.

Each Investigator is required to disclose the following Significant Financial Interests (see definitions):

- Any Significant Financial Interest of the Investigator that would reasonably appear to be directly and significantly affected by the research or educational activities funded, or proposed for funding, by an external sponsor; or
- Any Significant Financial Interest of the Investigator in an entity whose financial interest would reasonably appear to be directly and significantly affected by the research or educational activities funded, or proposed for funding, by an external sponsor.

Regardless of the above minimum requirements, a faculty or staff member, in his or her own best interest, may choose to disclose any other financial or related interest that could present an actual or be perceived to present a Conflict of Interest. Disclosure is a key factor in protecting one's reputation and career from potentially embarrassing or harmful allegations of misconduct.

Each Investigator named in the proposal will complete a Significant Financial Interest(s) Disclosure form and, if they have Significant Financial Interest, attach all required supporting documentation. The completed Disclosure Form and the proposal must be submitted with the University's Sponsored Projects Office. The Director of Sponsored Projects will review this documentation. Supporting documentation that identifies the business enterprise or entity involved and the nature and amount of the interest should be submitted in a sealed envelope marked confidential and accompany the Disclosure Form.

c. Collaborators

Collaborators from other institutions must either comply with this policy or provide a certification that their institutions comply with Federal policies regarding Investigator significant financial interest disclosure and that their portion of the project complies with their institutional policies. Further, the collaborators must state conflict(s) of interests or a lack thereof in adherence to University guidelines.

d. Review of Disclosures

The Director of Sponsored Projects shall conduct an initial review of all financial disclosures to determine whether a Conflict of Interest exists. If the Investigator(s) makes a disclosure of significant financial interest, the Sponsored Projects Office will review the disclosure to determine if a full review by the University President, Provost, or his or her designee (the "University Reviewer") is required. If the initial determination is made that there may be a potential for Conflict of Interest covered by this policy, then the disclosure packet will be provided to the University Reviewer. A Conflict of Interest exists when the University Reviewer reasonably determines that a Significant Financial Interest could directly and significantly affect the design, conduct, or reporting of the proposed sponsored project. They shall determine what conditions or restrictions, if any, should be imposed by the institution to manage actual or potential conflicts of interest arising from disclosed Significant Financial Interests.

e. Other disclosures/reports

As required by Federal regulation, all Significant Financial Interests must be disclosed *prior to the time a proposal is submitted*. All financial disclosures must be updated by Investigators during the period of the award, either on an annual basis or as new reportable Significant Financial Interests are obtained.

In addition, a current SEC-1 must be on file in the University Personnel Office, or be filed upon notification of an award and prior to expenditure of any funds from the award. The SEC-1 must be completed annually by May 1 of each calendar year the investigator serves as a grant or contract administrator.

III. Managing Conflicts of Interests

a. Resolution Plan for Significant Financial Interests

Prior to consideration by the University Reviewer, the Investigator, in cooperation with the academic dean of the unit or college, will develop and present to the University Reviewer a Conflict of Interest Resolution Plan that details proposed steps that will be taken to manage, reduce, or eliminate any actual or potential Conflict of Interest presented by a Significant Financial Interest. At a minimum the Resolution Plan shall address such issues as:

- Public disclosure of significant financial interests;
- Review of research protocol by independent reviewers; and,
- Monitoring of research by independent reviewers.

The University Reviewer will review the Resolution Plan and approve it, or add conditions or restrictions, which may include the following:

- Modification of the research plan;
- Disqualification from participation in all or a portion of the research funded;
- Divestiture of significant financial interests; or
- Severance of relationships that create actual or potential conflicts of interest.

If the University Reviewer determines that imposing the above referenced conditions or restrictions would be inequitable, or that the potential negative impacts that may arise from a significant financial interest are outweighed by interests of scientific progress, technology transfer, or the public health and welfare, then the University Reviewer may recommend that, to the extent permitted by Federal regulations, the research go forward without imposing such conditions or restrictions.

b. Letter of Agreement – For significant Financial Interests

The approved Resolution Plan shall be incorporated into a Letter of Agreement between the University and the faculty/employee that details the conditions or restrictions imposed upon the Investigator in the conduct of the project or in the relationship with the Business Enterprise or Entity. The Letter of Understanding shall be signed by the Investigator, the Department Chair/Academic Dean, the University Reviewer, and the President or Provost/Vice President for Academic Affairs. Actual or potential conflicts of interest will be satisfactorily managed, reduced, or eliminated in accordance with the Letter of Understanding. All required reports regarding the conflict of interest shall be submitted to the sponsor prior to the expenditure of any funds under an award. The Resolution Plan and the Letter of Understanding must be signed and all conditions or restrictions in the Letter must be satisfied prior to the expenditure of any funds under the award.

c. Resolution Plan for Other Conflicts of Interest/Commitment

The Investigator (or subject of a complaint) in cooperation with the academic dean of the unit or college, will develop and present to the University Reviewer a Conflict of Interest Resolution Plan that details proposed steps that will be taken to manage, reduce, or eliminate any actual or potential Conflict of Interest/Commitment.

At a minimum the Resolution Plan shall address such issues as:

- Administrative review of events and circumstances that may cause the appearance of a conflict, such as outside employment, assignment of inappropriate class materials and so forth,
- Steps to be taken to manage and reduce any potential harm such as relinquishment or reduction of outside employment; reduction of private enterprise activities or compensation for private enterprise activities; concurrence on the appropriateness of assigned class material.

The University Reviewer will review the Resolution Plan and approve it, or add conditions or restrictions, which may include the following:

- Determination that there is no actual conflict of interest/commitment;
- Severance of relationships that create actual or potential conflicts of interest;
- Continued administrative oversight and management of the events or activities that raised the potential for conflict of interest.

If the University Reviewer determines that imposing the conditions or restrictions would be inequitable, or that the potential negative impacts that may arise are outweighed by interests of educational quality, technology transfer, or the public health and welfare, then the University Reviewer may recommend that, to the extent permitted by law, the activities go forward without imposing conditions or restriction.

IV. University Official Certifications for sponsored Research

To ensure that all Sponsored Research proposals submitted by the University have been checked for Conflict of Interest violations, the University's Director of Sponsored Projects must certify on each proposal that

- A. the University has implemented and is enforcing a written policy of Conflict of Interest consistent with the provisions of the appropriate agency regulations;
- B. to the best of his/her knowledge and belief, all financial disclosures required by the Conflict of Interest policy have been made; and,
- C. all identified conflicts of interest will have been satisfactorily managed, reduced, or eliminated prior to the expenditure of funds under the award, in accordance with the University's Conflict of Interest policy.

V. Record Retention

Conflict of Interest financial disclosures and Resolution Plans/Letters of Agreement compiled to manage actual or potential Conflicts of Interest shall be retained by the Office of Sponsored Programs until three years after the termination or completion of the award to which they relate, or the resolution of any government action involving those records.

VI. Sanctions for Noncompliance

Whenever an Investigator has violated this policy or the terms of the Letter of Understanding, the University Reviewer will recommend sanctions, which may include disciplinary action in accordance with the applicable CBA or existing University rule or regulation such as the Board of Governor's Merit Principles Policy and rules regarding discipline of students. If the violation results in a collateral proceeding under University policies regarding misconduct in research, then the University Reviewer shall defer a decision on sanctions until the misconduct in research process is completed. The University Reviewer's recommendation on sanctions shall be presented to the Investigator's Dean. The University Reviewer shall then present their recommendations to the President for enforcement of any disciplinary action, as identified in the applicable CBA.

In addition, the University shall follow Federal regulations regarding the notification of the sponsoring agency in the event an Investigator has failed to comply with this policy. The sponsor may take its own action, as it deems appropriate, including the suspension of funding for the Investigator until the matter is resolved, or suspension or debarment from all federal grants for a period of time for severe cases.

The University may also be sanctioned for non-enforcement or noncompliance with this policy by the funding agency. Such sanctions may include restrictions imposed on the University (and the individual(s)) with respect to future submission of proposals.

VII. Definitions:

Significant Financial Interest: Anything of monetary value, including but not limited to, salary or other payment for services (e.g. consulting fees or honoraria); equity interests (e.g. stocks, stock options, or other ownership interests); and intellectual property rights (e.g. patents, copyrights, and royalties from such rights). The term does not include the following:

- Salary, royalties, or remuneration from the employing institution.
- Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities.
- Income from service on advisory committees or review panels for public or nonprofit entities.
- An equity interest that, when aggregated for the Investigator's spouse and dependent children, meets both of the following tests:
 - Does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value.
 - Does not represent more than 5% ownership interest in a single entity.
- Salary, royalties, or other payments that, when aggregated for the investor and the Investigator's spouse and dependent children, are not expected to exceed \$10,000 during the next 12- month period.

Investigator: The principal Investigator, co-principal Investigator(s), and any other person at the University who is responsible for the design, conduct, or reporting of research or educational activities funded by or proposed for funding by sponsored projects.

Immediate Family: Spouse and dependent children of the Investigator.

Intellectual Property: Any the term used to describe the patents, copyrights, mask work protection, trade secrets, and plant variety protection certificates, which cover, or pertain to, inventions.

Potential Conflict of Interest: Any outside activity, commitment, or interest that may reasonably give the appearance of adversely affecting, compromising, or being incompatible with the University obligations of the Investigator.

University: Any of the PASSHE Universities.

Resolution Plan: A Plan developed by the Investigator and his/her academic dean, approved by the University Reviewer and resulting in a Letter of Agreement between the University and the Investigator. It outlines the steps that must occur by the Investigator and/or the University to manage or eliminate a potential Conflict of Interest situation.

Statement of Financial Interest, PA Form SEC-1: A Pennsylvania State Ethics Commission form used by filers to disclose financial information concerning the prior calendar year. All covered University employees must complete this form and file it with their University Personnel Office by May 1^{of} each year.

Significant Financial Interests Disclosure Form: A University form used to disclose significant financial interest by an Investigator prior to the submission of a proposal through the University's Office of Sponsored Projects or equivalent. [A SAMPLE WILL BE DEVELOPED AND ATTACHED.]

University Reviewer: The University Reviewer may be the President or Provost, or official designees. A committee may perform this function at the discretion of the University President or Provost. Participants may vary at different PASSHE Universities. At Millersville University, the Reviewer is the Dean of Graduate Studies and Research.

Sources:

- The Pennsylvania State University, "Investigator Significant Financial Interest Disclosure Policy for Sponsored Projects", 1995.
- "Investigator Financial Disclosure Policy". Federal Register, 59 (123):38-42, 1994 and 60 (132):35820-35823, 1995.
- "Principles to Govern College and University Compensation Policies for Faculty Engaged in Sponsored Research", A Joint Statement of The Association of American Universities, The American Council on Education, and the National Association of State Universities and Land Grant Colleges, 1978.
- "On Preventing Conflicts of Interest in Government - Sponsored Research at Universities", A Joint Statement of the Council of the American Association of University Professors and the American Council on Education, December, 1964.
- National Council of University Research Administrators, "Regulation and Compliance", 2007.
- West Chester University, "Conflict of Interest Policy for Sponsored Projects and Disclosures of Significant Financial Interest", 1995.
- Indiana University of Pennsylvania, "Conflict of Interest Policy," 2003.

Investigator Financial Disclosure Policy

(Applicable to all Sponsored Project Proposals)

What is required?

Federal regulations require institutions to have policies and procedures in place that ensure that Investigators disclose any significant financial interest that may present an actual or potential conflict of interest in relationship to externally sponsored projects. Such disclosures must be made **prior to the submission of a proposal** for funding,* and institutions must develop specific mechanisms by which conflicts of interest will be satisfactorily managed, reduced, or eliminated prior to the expenditure of any funds on an award.

* If a new reportable significant conflict of interest arises at any time during the period after the submission of the proposal through the period of the award, the filing of a disclosure is also required.

Who is covered?

"Investigator" means the principal investigator/project director, co-principal investigators, and any other person at the University who is responsible for the design, conduct, or reporting of research, educational, or service activities funded, or proposed for funding, by an external sponsor. In this context, the term "Investigator" includes the Investigator's spouse and dependent children.

What must be disclosed?

Each Investigator shall disclose all *significant financial interests*:

- (i) that would reasonably appear to be affected by the research, educational, or service activities funded, or proposed for funding, by an external sponsor; or
- (ii) in entities whose financial interests would reasonably appear to be affected by such activities.

What is covered?

"*Significant financial interests*" means anything of monetary value, including, but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options, or other ownership interests); and intellectual property rights (e.g., patents, copyrights, and royalties from such rights). The term **does not include**:

- (1) Salary, royalties, or other remuneration from Penn State;
- (2) Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
- (3) Income from service on advisory committees or review panels for public or nonprofit entities; or
- (4) An equity interest that when aggregated for the Investigator and the Investigator's spouse and dependent children, meets both of the following tests: does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, or, constitute more than a five percent ownership interest in any single entity; or
- (5) Salary, royalties or other payments that when aggregated for the Investigator and the Investigator's spouse and dependent children over the next twelve months, are not expected to exceed \$10,000.

Disclosure Procedures:

- (1) All Investigators must disclose their significant financial interests to their college/academic unit utilizing this form and attaching all required supporting documentation. The completed form and packet must be signed by the investigator and appropriate college/unit officials and submitted with the proposal and the Internal Approval Form (IAF) to the Office of Sponsored Programs (OSP) [or with the "Blue Sheet" at the Hershey Medical Center to the Office of Research Affairs]. Supporting documentation should be submitted to OSP in a sealed envelope marked *confidential*.
- (2) In accordance with Federal regulations, a complete disclosure must be made by Investigator(s) *prior to submission of the proposal*.
- (3) Resolutions to conflicts of interest will be incorporated into a Memorandum of Understanding (MOU) between the Investigator(s) and the University [signed by Investigator(s), the Department Chair/ Unit Head, and the Dean/Director] prior to expenditure of any award funds.

Significant Financial Interest Disclosure

(Applicable to all Sponsored Project Proposals)

Faculty/Staff Name _____

Department/Unit _____

College/IRP _____

Proposal Title _____

Proposal Submitted to _____

I am disclosing the following significant financial interests (check one) and attaching supporting documentation (in an envelope marked confidential) that identifies the business enterprise or entity involved and the nature and amount of the interest:

("Significant financial interests" are defined as interests or projected annual income valued at greater than \$10,000 or an equity or ownership interest of more than five percent held by an Investigator and the Investigator's spouse or dependent children. See page 1 for exempt interests.)

Salary or other payment for services (e.g., consulting fees or honoraria).

Equity interests (e.g., stocks, stock options, or other ownership interests).

Intellectual property rights (e.g., patents, copyrights, and royalties from such rights).

Other significant financial interest of the Investigator that possibly could affect or be perceived to affect the results of the research, educational, or service activities funded or proposed for funding.

Further I agree:

- To update this disclosure during the period of the award as new reportable significant financial interests are obtained.
- To cooperate in the development of a Memorandum of Understanding (MOU) that constitutes a conflict of interest "resolution plan."
- To comply with any conditions or restrictions imposed by the University to manage, reduce, or eliminate actual or potential conflicts of interest or forfeit the award.
- To have a fully-executed MOU in place prior to making any expenditures of sponsored project funds.

Signed: _____

Date:

(Original signature only -- a "per" signature is not acceptable.)

Endorsements:

I have reviewed the significant financial interest disclosure and believe that it will be possible to develop and execute, prior to expenditure of award funds, an MOU to manage, reduce, or eliminate any actual or potential conflict of interest; and, therefore, I recommend that that proposal be submitted to the agency at this time.

Department/Unit Head:

Signed

Date

College Dean / IRP Director:

Signed

Date

