Financial Conflict of Interest for Investigators and Research Staff

FDA, NSF, and PHS Regulatory Criteria for Financial Disclosure
Cross-Referenced with Regulatory Guidance and AAHRPP Standards

Related Accreditation Elements: I.3.G and III.1.A

Funding and regulatory agencies have various criteria for reporting, evaluating, and managing conflicting interests of investigators and research staff. Organizations should have policies and procedures that are consistent with federal criteria and that ensure conflicting interests do not adversely affect the protection of participants or the credibility of the human research protection program. Organizations may use personnel and committees external to the IRB to evaluate and manage financial conflicts of interest. However, policies and procedures must provide that the IRB retain its regulatory authority and make final determinations that participants are protected.

This Tip Sheet covers the following:

- Disclosure criteria required under the Food and Drug Administration (FDA) regulations, National Science Foundation (NSF), and Public Health Service (PHS).
- AAHRPP standards for managing investigator conflicts of interest.
- Definitions, under 42 CFR 50.603 and 21 CFR 54.2 that are central to the understanding and management of conflicts of interest.

Please note:

The first step is to determine which regulations your organization and investigators must follow. For example:

- If an organization must follow both the FDA and PHS regulations, at a minimum, the organization should comply with FDA and PHS disclosure requirements.
- If an organization must follow only the FDA regulations, the disclosure criteria in the FDA regulations are acceptable.
- If an organization must follow only the PHS regulations, the PHS disclosure criteria are acceptable.
- If an organization must follow the NSF regulations – and is not obligated to follow the FDA or PHS regulations – then the organization should have disclosure criteria consistent with the NSF regulations.
- If an organization does not need to follow the FDA, NSF, or PHS regulations, the organization should have disclosure criteria equivalent to the FDA, NSF, or PHS regulations.

Within your organization the disclosure criteria must be the same regardless of funding source. Your organization may impose stricter disclosure requirements, provided the minimum requirements are met.

Recommended Content:

1. Cite or repeat verbatim the FDA, NSF, or PHS regulations.

2. Define the individuals who are covered by the financial conflict of interest policy.
   - Include investigators and other research staff and their immediate family members in the definition.
3. **Define the financial interests that must be disclosed:**
   - Include in the definition aggregate financial interests of investigators and research staff and their immediate family members.
   - Define immediate family members.
   - Include financial and non-financial criteria in the definition that are consistent with the federal regulations your organization or investigators must follow.

4. **Include additional criteria relevant to the local context.**

5. **Describe the process to disclose financial interests:**
   - Describe the process for disclosure, such as completion of a financial statement.
   - Describe the events at which disclosure must be made, such as:
     — At the time of initial review.
     — At the time of continuing review.
     — When there are changes in financial circumstances.
   - Describe to whom financial interests are disclosed.

6. **Describe the time frame for reporting changes in financial interests related to approved research.**

7. **Describe the process used to evaluate and, when necessary, to manage financial interests:**
   - Identify the entity that judges whether financial interests require management.
   - Describe the criteria used to determine whether financial interests require management. At a minimum, the criteria must include:
     — Whether the financial interest will adversely affect the protection of participants in terms of the criteria for IRB approval; and
     — Whether the financial interest will adversely affect the integrity of the research.
   - Describe the options considered for managing conflicts.
   - Identify the entity that selects the management plan.
   - Identify the entity that determines that the management plan is adequate.
   - Describe the criteria used to determine that the management plan is adequate. At a minimum, the criteria must include:
     — Whether the financial interest will adversely affect the protection of participants in terms of the criteria for IRB approval; and
     — Whether the financial interest will adversely affect the integrity of the research.
   - Describe how the evaluation and management plan of a financial interest is documented.

8. **Describe the role of the IRB:**
   - Indicate that financial interests are evaluated and managed prior to IRB approval.
   - If the evaluation and management of financial interests are not performed by the IRB:
     — Describe the process to communicate the information regarding the management plan to the IRB.
     — Indicate that the information communicated to the IRB is used by the IRB in the review process.
     — Describe the actions the IRB may take with the evaluation and management plan.
   - Describe the process so that the IRB has the final authority to determine whether the research with the financial interest and the management plan, if any, allow the research to be approved.

**Other Suggestions:**

1. Policies and procedures for record keeping should describe how records are maintained for financial disclosures and for activities related to the evaluation and management of disclosed financial interests.
2. Write supporting documents, guidelines, and training materials so they are consistent with the policies and procedures for disclosing, evaluating, and managing investigator and research staff conflict of interest.
Responsibility of applicants for promoting objectivity in research for which PHS funding is sought (NSF disclosure requirements are harmonized with the PHS disclosure requirements.)

50.603 Definitions
As used in this subpart:

- **Investigator** means the principal investigator and any other person who is responsible for the design, conduct, or reporting of research funded by PHS, or proposed for such funding. For purposes of the requirements of this subpart relating to financial interests, “Investigator” includes the Investigator’s spouse and dependent children.

- **Significant Financial Interest** 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 the applicant institution;
  2) Any ownership interests in the institution, if the institution is an applicant under the SBIR Program;
  3) Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
  4) Income from service on advisory committees or review panels for public or nonprofit entities;
  5) 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, and does not represent more than a 5% ownership interest in any single entity; or
  6) Salary, royalties or other payments that, when aggregated for the Investigator and the Investigator’s spouse and dependent children over the next 12 months, are not expected to exceed $10,000.

50.604 Institutional responsibility regarding conflicting interests of investigators.
Each Institution must:

1. Require that, by the time an application is submitted to PHS, each Investigator who is planning to participate in the PHS-funded research has submitted to the designated official(s) a listing of his/her known Significant Financial Interests (and those of his/her spouse and dependent children):
   (i) That would reasonably appear to be affected by the research for which PHS funding is sought; and
   (ii) In entities whose financial interests would reasonably appear to be affected by the research.

2. All financial disclosures must be updated during the period of the award, either on an annual basis or as new reportable Significant Financial Interests are obtained.

FDA Regulations: 21 CFR 54 Financial Disclosure by Clinical Investigators

54.2 Definitions
For the purposes of this part:

- **Compensation affected by the outcome of clinical studies** means compensation that could be higher for a favorable outcome than for an unfavorable outcome, such as compensation that is explicitly greater for a favorable result or compensation to the investigator in the form of an equity interest in the sponsor of a covered study or in the form of compensation tied to sales of the product, such as a royalty interest.

- **Significant equity interest in the sponsor of a covered study** means any ownership interest, stock options, or other financial interest whose value cannot be readily determined through reference to public prices (generally, interests in a nonpublicly traded corporation), or any equity interest in a publicly traded corporation that exceeds $50,000 during the time the clinical investigator is carrying out the study and for one year following completion of the study.
• **Proprietary interest in the tested product** means property or other financial interest in the product including, but not limited to, a patent, trademark, copyright or licensing agreement.

• **Clinical investigator** means only a listed or identified investigator or sub-investigator who is directly involved in the treatment or evaluation of research subjects. The term also includes the spouse and each dependent child of the investigator.

• **Significant payments of other sorts** means payments made by the sponsor of a covered study to the investigator or the institution to support activities of the investigator that have a monetary value of more than $25,000, exclusive of the costs of conducting the clinical study or other clinical studies, (e.g., a grant to fund ongoing research, compensation in the form of equipment or retainers for ongoing consultation or honoraria) during the time the clinical investigator is carrying out the study and for one year following the completion of the study.

### 54.4 Certification and disclosure requirements

(a) The applicant (of an application submitted under sections 505, 506, 510(k), 513, or 515 of the Federal Food, Drug, and Cosmetic Act, or section 351 of the Public Health Service Act) that relies in whole or in part on clinical studies shall submit, for each clinical investigator who participated in a covered clinical study, … a disclosure statement described in paragraph (a)(3) of this section.

(3) Disclosure Statement: For any clinical investigator defined in 54.2(d) for whom the applicant does not submit the certification described in paragraph (a)(1) of this section, the applicant shall submit a completed Form FDA 3455 disclosing completely and accurately the following:

(i) Any financial arrangement entered into between the sponsor of the covered study and the clinical investigator involved in the conduct of a covered clinical trial, whereby the value of the compensation to the clinical investigator for conducting the study could be influenced by the outcome of the study;

(ii) Any significant payments of other sorts from the sponsor of the covered study, such as a grant to fund ongoing research, compensation in the form of equipment, retainer for ongoing consultation, or honoraria;

(iii) Any proprietary interest in the tested product held by any clinical investigator involved in a study;

(iv) Any significant equity interest in the sponsor of the covered study held by any clinical investigator involved in any clinical study.

---

**Combined financial disclosure requirements under PHS and FDA regulations**

(For organizations that are subject to both PHS and FDA requirements. Your organization may impose stricter disclosure requirements, provided the minimum requirements are met.)

**Definitions**

- **Immediate Family** means spouse and dependent children.

- **Financial Interest Related to the Research** means financial interest in the sponsor, product, or service being tested, or competitor of the sponsor or product or service being tested.

All individuals involved in the design, conduct, or reporting of research are to disclose the following financial interest:

- Do you or your immediate family have any of the following?
  - Ownership interest, stock options, or other financial interest related to the research unless it meets four tests:
    1. Does not exceed $10,000 when aggregated for the immediate family.
    2. Publicly traded on a stock exchange.
    3. No arrangement has been entered into where the value of the ownership interests will be affected by the outcome of the research.
    4. Does not exceed 5% interest in any one single entity when aggregated for the immediate family.
  - Compensation related to the research unless it meets two tests:
    1. Does not exceed $10,000 in the past year when aggregated for the immediate family.
    2. No arrangement has been entered into where the amount of compensation will be affected by the outcome of the research.
  - Proprietary interest related to the research including, but not limited to, a patent, trademark, copyright, or licensing agreement.
If you have any of the above, describe the financial interest and any steps planned to prevent the financial interest from interfering with the design, conduct, or reporting of the research, including interfering with the protection of participants.

Financial disclosure requirements under FDA regulations
(For organizations that are subject only to FDA requirements. Your organization may impose stricter disclosure requirements, provided the minimum requirements are met.)

Definitions
- Immediate Family means spouse and dependent children.
- Financial Interest Related to the Research means financial interest in the sponsor, product or service being tested, or competitor of the sponsor or product or service being tested.

All individuals involved in the design, conduct, or reporting of the research protocol are to disclose the following financial interest:

- Do you or your immediate family have any of the following?
  - Ownership interest, stock options, or other financial interest related to the research unless it meets three tests:
    1. Does not exceed $50,000 when aggregated for the immediate family.
    2. Publicly traded on a stock exchange.
    3. No arrangement has been entered into where the value of the ownership interests will be affected by the outcome of the research.
  - Compensation related to the research unless it meets two tests:
    1. Does not exceed $25,000 in the past year when aggregated for the immediate family.
    2. No arrangement has been entered into where the amount of compensation will be affected by the outcome of the research.
  - Proprietary interest related to the research including, but not limited to, a patent, trademark, copyright, or licensing agreement.

If you have any of the above, describe the financial interest and any steps planned to prevent the financial interest from interfering with the design, conduct, or reporting of the research, including interfering with the protection of participants.

Financial disclosure requirements under PHS regulations
(For organizations that are not subject to FDA requirements. Your organization may impose stricter disclosure requirements, provided the minimum requirements are met.)

Definitions
- Immediate Family means spouse and dependent children.
- Financial Interest Related to the Research means financial interest in the sponsor, product or service being tested, or competitor of the sponsor or product or service being tested.

All individuals involved in the design, conduct, or reporting of the research protocol are to disclose the following financial interest:

- Do you or your immediate family have any of the following?
  - Ownership interest, stock options, or other financial interest related to the research unless it meets three tests:
    1. Does not exceed $10,000 when aggregated for the immediate family.
    2. Publicly traded on a stock exchange.
    3. Does not exceed 5% interest in any one single entity when aggregated for the immediate family.
  - Compensation related to the research unless it meets the one test:
1. Does not exceed $10,000 in the past year when aggregated for the immediate family.

- Proprietary interest related to the research including, but not limited to, a patent, trademark, copyright, or licensing agreement.

If you have any of the above, describe the financial interest and any steps planned to prevent the financial interest from interfering with the design, conduct, or reporting of the research, including interfering with the protection of participants.