

Sample Notice to Inventors: This notice will be used by the Office of Technology Transfer (OTT) as part of its acknowledgement sent to inventors of receipt of a Record of Invention. A comparable notice should be given to all campus or Laboratory inventors by Authorized Licensing Offices at the time of invention disclosure. This notice may be excerpted or adapted by campuses or Laboratories for their own use as they may choose. If the local notice is intended to be shared routinely with authors disclosing their works of authorship for licensing consideration, this sample notice should be modified accordingly.

What Inventors Need to Know about Conflicts of Interest in Licensing (October 1, 2001)

UC Policy and State Law Concerning Conflicts of Interest in Licensing

The University of California's policy on conflicts of interest provides that none of the University's "faculty, staff, managers, or officials shall engage in any activities which place them in a conflict of interest between their official activities and any other interest or obligation." In addition to UC policy, University faculty and staff must comply with state statutes and regulations governing conflicts of interest, specifically the Political Reform Act of 1974 (the Act). The Act requires public officials to "perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them." (Gov. Code, § 81001, subd. (b).)

The Act and its implementing regulations apply to University licensing decisions. In other words, University inventors and University licensing staff must not allow their personal financial interests to influence their or other's University licensing decisions.

Guidelines on Managing Potential Conflicts of Interest in Licensing

Licensing decisions for the University are made by Licensing Professionals (LP) within authorized campus and Laboratory licensing offices. The work of the LP is sometimes aided by the inventor, who may be invited by the LP to work with University licensing staff and potential licensees to effectively commercialize University inventions.

Because inventors may have the opportunity to influence University licensing decisions in ways that could lead to personal gain or give advantage to companies in which they have a financial interest, inventors must comply with the disqualification and disclosure requirements of the Act.

1. The disqualification requirements of the Act require an inventor who has a disqualifying personal financial interest in a University licensing decision to refrain from participating in or influencing the decision. However, if the LP determines that the inventor's involvement is necessary to the decision, or if the inventor will negotiate "across the table" from the University on behalf of a company in which the inventor has a disqualifying personal financial interest, the inventor may participate so long as proposed University licensing decisions are reviewed by an independent body (a Licensing Decision Review). (Note: Under the Act, University negotiations with an inventor who is also the sole proprietor or who solely, or jointly, with his or her spouse, exercises sole direction and control of a candidate licensee may not trigger the need for Licensing Decision Review).

2. The disclosure requirements of the Act require the inventor to specifically disclose any disqualifying personal financial interest in the licensing decision when he or she is involved in a proposed University licensing decision.

How does an inventor disqualify him or herself?

If an inventor has a disqualifying personal financial interest in a University licensing decision, as early as at the time of invention disclosure--the inventor may disqualify him or herself by formally asserting in writing on Form TT-100 (available at www.ucop.edu/ott/tt-100) that he or she has not and will not in the future make, participate in making, or attempt to influence a University licensing decision concerning the invention, including the selection of a licensee(s), and other decisions made in the course of licensing the invention. Alternatively, simple (and absolute) nonparticipation in all licensing decisions, even without formal written self-disqualification, would constitute an acceptable disqualification under the Act. Inventors who do not wish to be involved in the licensing decision-making process in any way do not have to complete any form, as long as they make their wishes clear to the Licensing Professional.

How does an inventor become involved?

When an inventor is invited to be involved in a University licensing decision by the Licensing Professional, or intends to negotiate "across the table" from the University, inventor disclosure of any disqualifying personal financial interest must be made on Form TT-100, promptly upon request by the LP. In most cases, this would be upon identification by the LP of a candidate licensee(s) and prior to the commencement of University negotiations with the company. If Form TT-100 indicates that an inventor has a disqualifying personal financial interest, and if the inventor has been or will be involved in the LP's licensing decisions, the LP must initiate a Licensing Decision Review. If no Form TT-100 is completed by the inventor (and thus there is no definitive assertion, positive or negative, of the inventor's personal financial interest), and if the inventor has been or will be involved in the LP's licensing decisions, the LP, in his or her judgement, may determine that a Licensing Decision Review is appropriate. If inventors have any questions about how the disqualification/disclosure process should be carried out, the LP can provide assistance.

How does the licensing decision undergo review?

Licensing Decision Review means there is a review by a non-interested person or persons before the proposed licensing decision goes to the final decision-maker for approval. The review must be based on an independent review and assessment of the facts of the case and must be conducted by qualified staff with appropriate expertise, knowledge and professional judgment, who must independently check the Licensing Professional's original data, analysis, proposed selection of licensees, and other licensing decisions. This is necessary under the Act since the LP may have been influenced by the inventor with the disqualifying personal financial interest.

Who conducts the Licensing Decision Review?

Each campus and Laboratory and the Office of Technology Transfer was directed in a June 18, 2001 letter to Chancellors and Laboratory Directors from Provost King and Senior Vice President Mullinix to establish a plan for Licensing Decision Review. At OTT the nature of the licensing decision review will depend on the

level of the inventor's personal financial interest in the potential licensee. Most Licensing Decision Reviews will be conducted by another licensing official within the Office of Technology Transfer who has not been involved in the original proposed decision. More complex cases involving more significant inventor personal financial interests will be reviewed by an appropriate independent reviewer or by a committee appointed by the Executive Director or the Senior Vice President.

More detailed information and guidance on managing potential conflicts of interest in University licensing decisions are available at <http://patron.ucop.edu/ottmemos/docs/ott01-02.html>