

March 5, 2010  
Volume 69

Lincoln, Nebraska  
March 5, 2010

**Regent Craig presented a KUDOS award to Angela K. Hollman**, LAN Administrator, Information Technology Services, University of Nebraska at Kearney.

**Regent Hawks presented a KUDOS to Erin Cron**, Assistant Director of Student Organizations and Leadership Programs, University of Nebraska at Omaha.

**Regent Hassebrook presented a KUDOS to Bryan Miller**, Computer Specialist, College of Arts & Sciences, University of Nebraska-Lincoln.

**Regent Collins presented at KUDOS to Leo Masek**, Personnel, Natural Resources Business Center, University of Nebraska-Lincoln.

**V.**

**PUBLIC COMMENT**

Mr. Troy Wiegand spoke on the topic of policies that govern in-state tuition.

Ms. Diane Walkowiak spoke on the topic of the Industrial Arts Building on the Innovation Campus [See Documents file for handout]

Mr. Kile Johnson spoke on the topic of Dr. John R. Rohde (Addendum IX-A-1)

Mr. David Buntain spoke on the topic of Dr. John R. Rohde (Addendum IX-A-1)

**WHEREAS**, Regent Collins was instrumental in opening the Student Money Management Center, thereby encouraging students to take responsibility for their financial futures by creating and upholding a culture of financial empowerment through financial education;

**NOW, THEREFORE, BE IT RESOLVED**, that the University of Nebraska Board of Regents expresses sincere appreciation for Regent Megan Collin's dedicated service and effective leadership as a member of the board, and wishes her well in all her future endeavors.

Regent Clare presented the following Resolution

**WHEREAS**, Cade Craig has served with distinction as University of Nebraska Student

March 5, 2010

VIII-B-2 Approval of Purchase of Back-Up Computing Equipment Addendum

University of Nebraska Medical Center

VIII-B-3 Approve leasing of space from The Children's Specialty Pediatric Center

Action Student Opinion: Voting Aye: Klutman, Collins, Crabb, and Craig. Voting Aye: Hawks, McClurg, Phares, Schroeder, Whitehouse, Clare, Ferlic, and Hassebrook. Motion carried.

**IX. UNIVERSITY ADMINISTRATIVE AGENDA**

**B. BUSINESS AFFAIRS**

Motion Moved by McClurg and seconded by Clare to approve item IX-B-1

University of Nebraska

IX-B-1 Approve the Resolution and Statement of Creation (1) authorizing the President to execute the West Haymarket Joint Public Agency Agreement, and (2) authorizing the President to administer and execute the related approvals and instruments for creating and implementing the West Haymarket Joint Public Agency

There was discussion

Amendment Regent Hawks offered an Amendment to item IX-B-1: Authorize the President to execute the West Haymarket Joint Public Agency Agreement subject to the satisfactory clarification of Section 8 to the Chair of the Board and Regent Clare

Action on Amendment Student Opinion: Voting Aye: Collins, Crabb, Craig, and Klutman. Voting Aye: McClurg, Phares, Schroeder, Whitehouse, Clare, Hassebrook, and Hawks. Motion carried.

Action on Original Motion on on Original MCrabb, g, anan, Crabbo5 Twd Craig. VotHaycClurg, PIX-B-1

University, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline employees, responsibility to direct them or to adjust their grievances, or effectively to recommend any such action, if the exercise of such authority is not merely of a routine or clerical nature but requires the use of independent judgment.

3.2.2.3 In addition to the other penalties provided by law, any University employee violating the provisions above may be subject to disciplinary action.

3.2.2.4 (a) The President or the cognizant Chancellor may, upon a written showing of good cause, grant an exception to section 3.2.2.1 of these By-Laws. The written showing of good cause shall be filed with the appropriate University records officer and shall be considered a public record. (b) An official or employee who becomes a supervisor to his or her family member other than by means of nepotism shall notify the President or cognizant Chancellor within seven days of becoming aware of such situation and may continue to act as a supervisor until the President or cognizant Chancellor remedies the situation. The President or cognizant Chancellor shall act as soon as practicable.

3.2.2.5 The President and Chancellors may develop and implement internal policies and directives prohibiting nepotism and the supervision of a family member.

IX-B-3 Approve amendment of RP-3.2.8, Conflict of Interest and Conflict of Commitment

### **RP-3.2.8 Conflict of Interest and Conflict of Commitment**

#### **1. Introduction**

University relations with industry, government agencies, individuals, and other enterprises outside the University constitute a complex network of interactions. These interactions have directed attention to potential conflicts of values and interests between these entities and academia. ~~As a result, there has been much attention nationwide to such potential conflicts.~~ Conflict of Interest is addressed in Section 3.8 of the *Bylaws of the Board of Regents* as follows:

~~Conflict of Interest is addressed in Section 3.8 of the *Bylaws of the Board of Regents* as follows:~~

**3.8 Conflict of Interest.** No employee of the University shall engage in any activity that in any way conflicts with duties and responsibilities at the University of Nebraska ~~nor shall any employee hire or supervise a member of his or her immediate family without expressed written consent of the Board.~~. The Board of Regents has adopted Regents Policy 3.2.8 and authorized the implementation of related policies and

March 5, 2010  
Volume 69

~~Nebraska~~ statutes relating to conflict of interest and nepotism

March 5, 2010  
Volume 69

*Underlying these principles is the recognition that the University of Nebraska is a public institution with a mission of serving the people of Nebraska through research, teaching and service.*

**32. Annual Report**





## **65. Conflicts of Interest Involving Sponsored Research**

Research is basic to the University's teaching and service missions. Good teaching and learning depend upon research. Likewise, through its research, teaching, and service activities, the University's resources can best be brought to bear on public issues requiring objective, systematic study. Research forms an inherent part of departmental and collegiate missions, and brings recognition to the University and its faculty. All forms of research, which are within departmental and collegiate missions, and which maintain the high quality characteristic of the University, are appropriate to the University's open environment. Similarly, University teaching and service activities have potential for commercial use and development. ~~Industry-supported research is a legitimate academic endeavor. On a nationwide basis, research universities are actively seeking to strengthen their relations with industry. Government and industry alike support basic, applied, and proprietary research. Since research ranges over a broad spectrum, distinctions between these categories are often arbitrary; all can educate students in the scientific method. Industrial support should complement ongoing faculty research initiatives as well as provide additional opportunities for graduate education. Because industry has pioneered many new scientific areas, collaboration with industry can challenge faculty, enrich graduate and undergraduate education, and open options for students' future employment. Although the University wishes to foster University-industry partnerships, the University wishes to avoid any potential problems that may arise as a result of industrial sponsors directing research to meet their short-term needs and objectives. Prospects of financial gain could influence faculty and the University to choose the more commercial imminent, product-oriented research problems, rather than those fulfilling the University's objectives of educating students and advancing and applying more basic knowledge. Such problems could affect the quality and breadth of University research, teaching, and service missions, bias student education, cause favoritism, and undermine professor-student relationships. On federally-sponsored projects, academia attempts to prevent such problems by the established external peer review system of evaluating research proposals. In addition, on each campus the appropriate University department chair(s) or director(s), the appropriate dean(s), and vice-chancellor(s) all make appropriate review of external funding proposals. Although an established peer review system is not typically utilized by industrial sponsors, a considerable number of University-industry relations are initiated by faculty proposals which oftentimes complement federal projects. Such industry-related research should be encouraged. Nevertheless, to make certain that research and service activities conducted for industrial sponsors are appropriate to the University's mission, the University's customary internal review of industry-sponsored projects must be especially thorough.~~

### **5. Policy Statement I: Review of Appropriateness of Proposed Research Project**

~~As part of its research, education, and public service missions, the University encourages interactions between faculty and industry and other external agencies that enable faculty and other University personnel to pursue projects within their fields of interest and in keeping with their departmental and collegiate missions, or, if appropriate, the interdisciplinary missions of centers and institutes.~~

~~a. Faculty and other University employees have the freedom to undertake research, educational, or public service projects and to seek sponsorship of their liking, but must~~

~~collegiate missions; maintain the breadth and quality of research, teaching, and service creditable to the University; and are executed by the duly authorized administrative officer(s).~~

~~d. Questions regarding the appropriateness of industrial contracts and grants, or other forms of relationships, that cannot be resolved at the departmental, center, institute, or collegiate level must be reviewed and resolved by the appropriate vice chancellor or chancellor. Each campus has the option of establishing a faculty committee to make recommendations to the vice chancellor or chancellor for his or her final disposition.~~

Sponsored Research means research, training, and instructional projects performed by Covered Persons using any University space, materials, equipment or property that involves funds, materials or other compensation from sources outside the University through a grant or contract that obligates the University to a specified statement of work, sets forth binding financial terms in the form of a budget or up-front payment, or contains terms related to ownership of and rights to use intellectual property developed thereunder. Sponsored Research is a vital endeavor of the University; it allows faculty the means to pursue excellence in their research and scholarly activity, it expands opportunities for graduate and undergraduate student participation in research, it enhances the quality of University research facilities through public and private support, and it helps facilitate the commercialization of research and technology to benefit the University and Nebraska. The University encourages its faculty and staff to engage in both sponsored and non-sponsored research recognizing that compliance with this policy can help assure that appropriate standards of accountability are met and extramural considerations do not hinder the dissemination or commercialization of research.

Each campus shall establish its own Sponsored Research application approval process, including applicable internal or external peer review systems and implementing best practices for approving federally, publicly and privately sponsored research projects. The Chancellor shall be responsible for overseeing the research approval process and must designate an administrative officer who will be in charge of developing more specific written procedures for implementing the policy. The procedures for Sponsored Research approval at each campus must at a minimum include procedures for disclosing, identifying, reviewing, managing and reporting conflicts and potential conflicts that arise with regard to Sponsored Research on their campus pursuant to Article 3 of this policy.

## **76. Openness of Research and Publication of Results**

University. When appropriate, the University may enter into confidential agreements to protect proprietary information, where this is deemed necessary, either through direct agreement with an industrial sponsor or through an agreement between the sponsor and a University employee.

The campus official responsible for administration of research or other campus official designated by the Chancellor must ensure that all individuals who participate in industry-sponsored research projects are fully informed in writing of the ownership and disposition of inventions and requirements of confidentiality regarding research results and other confidential information provided by the sponsors of such projects.

Research conducted by faculty under industry or other commercial sponsorship must, as far as possible, maintain the University's open teaching, research, and service environment.

~~b. The campus official responsible for administration of research or Chancellor's designee must review and approve any new, proposed, or ongoing faculty-industry interactions whichas these interactions might compromise the University's open teaching and research environment. Those in the line of reviewing University-industry relationships—The appropriate department chair(s) or director(s), dean(s), and the appropriate vice chancellor, or, in rare circumstances, the individual designated to perform the complete administrative review as described in Section 1--shall investigateaid in this process and shall seek to resolve all potential problems. Concerns regarding violation of the Conflict of Interest policy shall be brought prior to the attention of the appropriate campus vice chancellor or chancellor, Provost, or President for resolutionapproval of such interaction.~~

~~e. The campus official responsible for administration of research or Chancellor's designee shall from time to time provide current information to the department chairs, deans, directors and faculty pertinent information for timely reporting of concerns regarding violation of the Conflict of Interest and Conflict of Commitment policy.~~

Faculty must have the right to disseminate their research results, indeed are obligated to do so. The University discourages individual faculty from agreeing to forego this basic right.

March 5, 2010  
Volume 69

~~The purpose of the Application for Permission to Engage in Professional Activity Outside the University Form is to provide documentation of the requisite approval under Section 3.4.5 and to provide an established procedure for review and approval of outside professional activity.~~

Department chairpersons, department heads, deans, and directors have primary responsibility to review the specific nature of each proposed outside professional activity within their respective areas of administrative responsibility and to deny approval to any such activity which would interfere with the normal University duties of the ~~staff member~~employee involved

engineers, architects, lawyers, psychologists, therapists, etc. It is sufficient that the nature of the outside professional activity be generally described so that appropriate evaluation may be conducted regarding potential interference with University duties, *Conflict of Interest*, and conflict of commitment. So long as none of the circumstances requiring Regental approval under subparagraphs (a), (b), (c), and (d) of Section 3.4.5 of the *Bylaws* exist, no further information need be provided by the ~~staff member~~employees, and the professional activity may be approved by the chancellor upon the recommendation of the appropriate dean or director.

76) Activities for a professional organization with which

~~parent of an individual or his or her spouse, or a person claimed by an individual or his or her spouse as a dependent for federal income tax purposes) in the aggregate own or have options to purchase the lesser of either 5 percent or more or \$2,000 or more of voting stock in a company which sponsors a research project of the employee, then the University employee is required to declare the equity interest in full.~~

~~2) If a University employee or a member of his or her immediate family, as defined in Section 11.a.1), in the aggregate own the lesser of 5 percent or more or \$2,000 or more of the voting stock, is an officer in a company which competes with the sponsor of a research project in which the employee is involved.~~

~~3) If a University employee or a member of his or her immediate family, as defined in Section 11.a.1), holds a position as an operational officer in a company with which the employee has a University research project.~~

~~4) If a University employee or a member of his or her immediate family, as defined in Section 11.a.1), holds a full-time or part-time position or has financial interest in a company which is the recipient of funds from a government agency or other sponsor.~~

~~5) If a University employee has involvement with commercial or educational enterprises where the name of the University may be used to further the commercial development of a product or service.~~

~~6) If a University employee or his or her immediate family, as defined in Section 11.a.1), receives a loan, honorarium, gift, in-kind contribution, or other consideration of value from a sponsor or a sponsor employee.~~

~~7) If the sponsor or agency supporting research is the Department of Health and Human Services, the National Science Foundation, other Federal units or a not for-profit private agency, it is necessary to declare any significant financial interest with any other agency, company, corporation, or other entity that might influence or be perceived to influence the conduct of research. Such significant financial interest is defined to be 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, and other ownership interests); and intellectual property rights (e.g., patents, copyrights, and royalties from such rights). A significant financial interest in business enterprises or entities exists when the value of such interests exceeds \$2,000 per annum, or if salary, fees, or other continuing payments represents more than a 5 percent ownership interest for any one enterprise or entity when aggregated for the investigator and the investigator's spouse and dependent children. Investments in mutual funds in which the extent of investment in a particular industry is unknown are excluded from the requirement to declare financial interest.~~

~~b. Memberships on Boards of Directors. Faculty or other University personnel memberships on boards of directors associated with the sponsor of any project proposal must be declared since the individual may be in a position to direct funds and direct the~~



~~e. Resolution of Conflicts. Wherever possible, the appropriate departmental chair(s) or director(s), dean(s), and the appropriate vice chancellor(s) must review and resolve any faculty conflicts of interest or conflicts of commitment. In some circumstances, the involvement of the chancellor, Provost, or President may be required to resolve the conflict.~~

~~12. Furthermore, consistent with the foregoing policy statement regarding conflicts of commitment and the effect such conflicts can have on a faculty member's research programs and the duties faculty members owe the University, University employees proposing outside employment or a consulting relationship with a third party shall disclose to the University any: i) confidentiality or non-disclosure agreements, ii) non-compete agreements or any agreement containing a non-compete clause, iii) assignments of intellectual property rights to the contracting party, and iv) involvement with commercial or educational enterprises where the name of the University may be used for commercial gain to the Chancellor or the Chancellor's designee. Although agreements of this type can be problematic, the University shall endeavor to promptly review such agreements and resolve any potential conflict of commitment to allow the University employee to perform the proposed outside employment or consulting while maintaining the integrity of their research projects and commitments to the University.~~

#### ~~98. Conflicts of Interest Involving Faculty Commercialization of University Technology Transfer~~

University projects have resulted in the creation of new Nebraska businesses which have transferred research results into products and services and which have contributed to the State's economy. Certain research discoveries lend themselves to commercialization by starting new ventures through the University or through faculty rather than the traditional licensing to existing companies. Moreover, this means of commercializing discoveries may be the best, or in some instances the only, means to transfer such new technology. The University recognizes this as an acceptable method of commercializing discoveries when it is in the best interests of the University, the State, and the inventor and is the most effective means to transfer such technology.

In establishing new companies to commercialize University technology, the University may accept equity positions or combinations of equity and future royalties in return for licensing the technology. This is an acceptable University activity and is an integral part of the technology transfer program. However, in such situations, reasonable limits on the University's involvement with respect to administrative time and the amount of equity taken must be observed. ~~This University technology transfer activities shall be governed by Section 3.10 of the Bylaws and Section 4.4.2 of the Policies. Such oversight will enable the University to be aware of and take steps to prevent or manage potential Conflicts of Interest which may arise, involving, among other things, favoritism in future dealings with the same company, discrimination against its competitors, or the use of public funds for private gain. Accordingly, University direction of the company must be limited in time, and the amount of equity taken must be less than controlling. The Board of Regents has separately authorized and delegated authority to the University Technology Development Corporation (UTDC), and nothing in this policy is intended to limit the authority of UTDC as it relates to properly managing or preventing conflicts of interest or otherwise.~~

Conflict situations also apply to any profit- or nonprofit-affiliated private entities established by the University or one of its employees. Therefore, in the University's relations with all such entities, the Conflict of Interest policy must be followed.

~~Ownership of equity in a company may entitle the University to membership on the company's board of directors. Such memberships are positive from the University's perspective since board members can look after the University's interest in company management. However, increased possibilities for conflicts of interest are inherent in such membership. In addition, ownership of equity in a company established by a University employee may also create situations which may lead to conflicts of interest. Thus, University employees, who hold ownership or equity or receive company royalties, or board members or company officers, who are University administrators involved in internal decisions regarding personnel, budgeting, contract negotiations, and the like, may be in a position to direct University projects to benefit the company causing problems of favoritism, discrimination, and improper use of public funds for private gain. In addition, board members or company officers are exposed to internal~~

~~confidential matters of their companies, and their company obligation may, therefore, conflict with their obligations to the University. Although accepting membership on a company's board of directors may be appropriate, the University must be provided with sufficient information to determine whether conflicts may arise as a result of the membership on the board.~~

Where University technology is transferred in return for an equity position, or royalties, or projects are to be performed in exchange for an equity position, the affected University employees must ~~be fully apprised of~~ disclose such proposals, and a suitable arrangement that reflects the Regents Patent Policy must be concluded, ~~both with prior to approval of the faculty and with the industry sponsor. The arrangement should provide for the faculty inventor to share in any consideration received by the University in accordance with established practices~~ proposal.

~~In recent years, because of federal tax law changes,~~ For-profit entities have been formed specifically to fund research and development, such as research and development limited partnerships. Such entities solicit investors from members of the public. There is the possibility that prospective investors may be induced to invest by what appears to be University involvement in the funding entity or by unrealistic expectations of the outcome of the projects. In either event, the name of the University could be unfairly traded upon. Therefore, care must be taken that the investor solicitation is consistent with the potential outcome of the research and the policy on the use of the University's name.

### ~~13. Policy Statement V: Conflicts of Interest Involving the University~~

~~a-~~ Where appropriate, the University may accept equity in a company as complete or partial payment for transferring University technology to the company for commercialization. Only the Board of Regents may approve acceptance of equity in a company upon the recommendation of the ~~eognizant chancellor, the Provost, and the~~ President.

~~b-~~ The University may designate individual(s) to hold membership on the board of directors of a company in which the University holds equity.

~~c-~~ University faculty, administrators, or other members of the University community holding any such board of directors membership shall oppose or absent themselves, as appropriate, from any funding decisions or other decisions relating to the University which:

- 1) violates or is contrary to any law or University policy or procedure in regard to grants or contracts;
- 2) would constitute a Conflict of Interest with such person's University office of employment; or
- 3) involves improper use of Tw(fr001 Tc.0004board )5.5(of )5.5(diy(here i-1.b6.1(snlw[(; or)6

March 5, 2010

Each Chancellor shall submit their campus' processes and procedures for review of institutional Conflicts of Interest to the President for review and approval.

**110. Appeal of Administrative Decisions**

Each campus shall assure that an appeal mechanism is in place to allow ~~faculty and others~~ Covered Persons to appeal ~~any administrative-an adverse~~ decision relating to ~~the Conflict of Interest~~ this policy.

**19. Disclosure of Interest Form**

~~A facsimile of the Disclosure of Interest Form appears on the next page.~~

Regent Hawks requested that the Board revisit this policy within the next 12 months to assure it is more comprehensive.

- Action Student Opinion: Voting Aye: Craig, Klutman, Collins, and Crabb. Voting Aye: Schroeder, Whitehouse, Clare, Ferlic, Hassebrook, Hawks, McClurg, and Phares. Motion carried.
- Motion Moved by Whitehouse and seconded by McClurg to approve item IX-B-4
- University of Nebraska-Lincoln
- IX-B-4 Approve the Program Statement and Budget for the Hamilton Hall Sixth Floor Renovation at the University of Nebraska-Lincoln
- There was discussion
- Action Student Opinion: Voting Aye: Klutman, Collins, Crabb, and Craig. Voting Aye: Whitehouse, Clare, Ferlic, Hassebrook, Hawks, McClurg, Phares, and Schroeder. Motion carried.
- Motion Moved by Hawks and seconded by McClurg to approve item IX-B-5
- IX-B-5 Approve an increase of \$400,000 in the Keim Hall project budget for the purchase of additional furniture and equipment
- There was discussion
- Action Student Opinion: Voting Aye: Collins, Crabb, Craig, and Klutman. Voting Aye: Clare, Ferlic, Hassebrook, Hawks, McClurg, Phares, Schroeder, and Whitehouse. Motion carried.
- Motion Moved by McClurg and seconded by Ferlic to approve item IX-B-6
- IX-B-6 Approve the conditional disposal or removal of the Industrial Arts Building at the Nebraska Innovation Campus of the University of Nebraska-Lincoln (UNL) on or after July 1, 2010 and following an open process to allow an opportunity for proposals for appropriate adaptive reuse
- There was discussion
- Action Student Opinion: Voting Aye: Crabb, Craig, and Collins. Voting No (abstained counted as No vote): Klutman. Voting Aye: Hassebrook, Hawks, McClurg, Phares, Schroeder, Whitehouse, and Clare. Voting No: Ferlic. Motion carried.
- Motion Moved by Ferlic and seconded by McClurg to approve item IX-B-7
- IX-B-7 Approve the installation of new HVAC, Energy Management System and associated equipment improvements in University Hospital Units 1 through 4 and Durham Outpatient Center on the UNMC Campus
- Action Student Opinion: Voting Aye: Craig, Klutman, Collins, and Crabb. Voting Aye: Hassebrook, Hawks, McClurg, Phares, Schroeder, Whitehouse, Clare, and Ferlic. Motion carried.

March 5, 2010

Volume 69

Motion

Moved by Ferlic and seconded by Schroeder to approve item IX-B-8

University of Nebraska Medical Center

IX-B-8

Approve two construction contract change orders to the Harold M. and Beverly Maurer

March 5, 2010