

東海大學研發成果運用利益衝突迴避及資訊揭露管理辦法

Regulations Governing Management and Application of Research Achievement and Measures to Avoid Conflicts of Interest

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第一條 東海大學（以下簡稱本校）為建立本校利益衝突迴避及資訊揭露之規範，防止不當利益輸送，依據政府科學技術研究發展成果歸屬及運用辦法、經濟部科學技術研究發展成果歸屬及運用辦法、教育部專科以上學校產學合作實施辦法規定，特訂定「東海大學研發成果運用利益衝突迴避及資訊揭露管理辦法」（以下簡稱本辦法）

Article 1 To establish regulations on conflict of interest avoidance to prevent transfer of undue benefit at Tunghai University (hereinafter referred to as the “University”), the University formulates Regulations Governing Management and Application of Research Achievement and Measures to Avoid Conflict of Interest (hereinafter referred to as the “Regulations”) adhering to the Government Scientific and Technological Research and Development Results Ownership and Utilization Regulation, the Ministry of Economic Affairs' Scientific and Technological Research and Development Results Ownership and Utilization Regulation, and the Ministry of Education's Guidelines Governing the Implementation of Industry-Academia Cooperation of Junior College and Above.

第二條 本辦法權責主管單位為本校研究發展處（以下簡稱研發處），負責訂定管理機制或規範，並負責受理或管理研發成果利益衝突與相關資訊申報或揭露、召開研發成果管理委員會議審議爭議案件與負責重大案件內外部通報等事宜。研發成果運用之利益衝突審查及爭議案件，審議單位為本校「研發成果管理委員會」，委員會之職權及組成依據本校「研究發展成果管理辦法」第六條規定。

Article 2 The responsible authority for the Regulations is the Office of Research and Development (hereinafter referred to as the “Office”). The Office is tasked with establishing management mechanisms and guidelines, handling or overseeing conflicts of interest arising from research outcomes, as well as processing information disclosure and reporting related to such conflicts. Additionally, it convenes meetings of the Research Outcome Management Committee to review disputes and is responsible for reporting major cases internally and externally.

The review of conflicts of interest and disputes related to the utilization of research outcomes is carried out by the Research Outcome Management Committee of the University. The authority and composition of the Committee are governed by Article 6 of the University's Regulations Governing Management and Application of Research Achievement.

第三條

本辦法適用之範圍及對象如下：

- 一、本辦法適用範圍係為本校各單位執行研發成果運用業務。
- 二、本辦法所稱當事人，係指參與或執行本校研發成果管理及運用相關人士，包含本校研發成果之創作人、涉及研發成果運用之代表人，以及簽辦、審議或核決本校研發成果管理或運用案件之人員。
- 三、本辦法所稱關係人，係指：
 - (一) 當事人之配偶或與其共同生活之家屬。
 - (二) 當事人之二親等以內親屬或姻親。
 - (三) 由當事人及本款第一目、第二目所列之關係人擔任負責人、董事、監察人或經理人之營利事業。但上列人員擔任前述職務係經政府或本校指派者，應依其他法令規定辦理。

Article 3

The scope and subjects to which the Regulations apply are as follows:

1. The scope of the Regulations is matters relating to the utilization of R&D results by units at the University.
2. The term “party” used in the Regulations refers to individuals involved in or responsible for the management and utilization of research and development outcomes at the University. This includes the creators of research and development outcomes at the University, representatives involved in the utilization of research and development outcomes, as well as individuals who sign, review, or approve projects related to the management or utilization of research and development outcomes at the University.
3. The term “related parties” used in the Regulations refers to:
 - (1) Spouse of the party or family members living together with the party.
 - (2) Relatives or in-laws within second-degree of the party.
 - (3) Profit-seeking businesses where individuals and related parties as listed in the first and second items of this subparagraph serve as managers, directors, supervisors, or executives. However, if the individuals mentioned above assume the aforementioned positions by government or university appointment, they shall comply with other legal regulations.

第四條

本辦法所稱利益，包括財產上利益及非財產上利益：

- 一、財產上利益：動產、不動產、現金、存款、外幣、有價證券、債權或其他財產上權利與其他具有經濟價值或得以金錢交易取得之利益。
- 二、非財產上利益：係指有利當事人或其關係人於本校或其他機關(構)之任用、陞遷調動及其他人事措施。

本辦法所稱利益衝突，係指當事人執行研發成果運用業務時，得因其作為或不作為，直接或間接使本人或其關係人獲取利益者。

Article 4 The term “interest” as used in the Regulations includes both property and non-property interests:

1. Property interests: movable property, real estate, cash, deposits, foreign currency, securities, claims or other property rights and other interests with economic value or obtainable through monetary transactions.
2. Non-property interests: Refers to advantages enjoyed by the party involved or their related parties concerning employment, promotion, transfer, and other personnel measures at the University or other institutions.

The term “conflict of interest” as used in the Regulations refers to situations in which a party, while engaged in the business of utilizing research and development outcomes, may, through their actions or inactions, directly or indirectly, result in personal or related party gains.

第五條 當事人及其關係人不得因執行本校研發成果運用業務，收受或獲取不當利益。

Article 5 The party and their related parties shall not, in the course of conducting the University's research and development outcome utilization activities, accept or obtain undue benefit.

第五條之一 當事人應主動揭露與擬授權或讓與研發成果之營利事業間，有無下列利益關係；約定於授權或讓與研發成果後取得者亦同：

- 一、本人及其配偶、未成年子女前一年內自該營利事業獲得合計超過新臺幣十五萬元之財產上利益，或持有該營利事業百分之五以上之股權。
- 二、本人及其配偶、子女、父母、祖父母、孫子女或兄弟姊妹擔任該營利事業負責人、董事、監察人或經理人之職務。

前項應向本校揭露事項，應主動填寫「東海大學研發成果運用利益衝突與迴避資訊揭露聲明書」送交研發處，或以簽呈會簽相關單位及研發處，陳報校長。

當事人有第一項利益關係時，係為本辦法所稱之利益衝突，當事人應自行迴避，不得參與研發成果運用之談判。

本校知悉當事人有應自行迴避之情事而未迴避者，應命其迴避。應迴避而未迴避者，應負擔因此所生民事、刑事和行政責任。

Article 5-1 The party should proactively disclose whether there are any of the following interest relationships between themselves and the profit-seeking businesses regarding the proposed authorization or transfer of research and development outcomes. The same applies to agreements made to obtain benefits after authorizing or transferring research and development outcomes:

1. The individual, their spouse, or their minor children have obtained a total of over NTD 150,000 in property benefits from the profit-seeking business within the previous year, or they hold more than five percent of the company's shares in the profit-seeking business.
2. The individual, their spouse, children, parents, grandparents, grandchildren, or siblings hold positions as person in charge, directors, supervisors, or managers in the profit-seeking business.

In the aforementioned cases, individuals should disclose these matters to the University and proactively fill out the Statement on Application of Research Achievement and Measures to Avoid Conflicts of Interest and submit the form to the Office. Alternatively, they may submit it for approval to the relevant units and the Office, and report to the President.

When there exists interest mentioned in the first paragraph for the party, it is regarded as a conflict of interest by the Regulations. The party should voluntarily recuse themselves and shall not participate in negotiations related to the utilization of research and development outcomes.

If the University becomes aware that the party has a situation requiring voluntary recusal but has not done so, the University shall instruct the party to recuse themselves. Individuals who should recuse themselves but fail to do so shall bear civil, criminal, and administrative liabilities arising from this.

第五條之二 如涉及研發成果爭議案件之申訴，研發處應將調查結果以書面通知檢舉人、涉案同仁及相關單位。涉案同仁對調查結果不服者，應於通知日起十五日內，向研發處提出申訴。

前項申訴應以書面為之，申訴書上應記載列申訴人之姓名、申訴事實、理由、證據及日期等事項，並於申訴書上簽名。

研發處收受前項申訴書後，應依另行成立召集「研發成果管理申訴委員會」，申訴審查結果經校長核定後，應通知申訴人。

申訴人就前項申訴結果，不得再聲明不服。

Article 5-2 In cases involving disputes related to research and development outcomes, the Office shall provide written notification of the investigation results to the complainant, the involved colleagues, and relevant units. Involved colleagues dissatisfied with the investigation results should file an appeal with the Office within fifteen days from the date of notification.

The appeal mentioned in the preceding paragraph shall be made in writing and should include the appellant's name, the facts and reasons for the appeal, evidence, and the date on the appeal document. The appeal document should also be signed by the appellant.

Upon receiving the aforementioned appeal document, the Office shall convene the Research Outcome Management Appeals Committee. After the appeal review results are approved by the President, the appellant shall be notified.

The appellant shall not further contest the outcome of the aforementioned appeal.

第六條 利益衝突審查及爭議案件之處理進度、資料及相關資訊，屬機密級文件，事件處理過程中所有資訊應予以保密。相關人員依本辦法揭露之個人資料，僅使用於實施本辦法之範圍內，並遵守本校相關辦法及個人資料保護法、營業祕密法及其他法令規定予以保護。

Article 6 The progress, documentation, and related information pertaining to the review of conflicts of interest and dispute cases are considered confidential documents. All information during the course of handling these matters should be kept confidential. Personal information disclosed by individuals in accordance with these regulations shall only be used within the scope of

implementing these regulations and shall be protected in accordance with relevant university regulations, the Personal Data Protection Act, the Trade Secrets Act, and other legal provisions.

第七條 本校就本辦法所訂利益衝突迴避及相關資訊揭露相關事項，應訂於本校內部控制制度。

Article 7 The University shall establish an internal control system for matters related to conflict of interest avoidance and information disclosure as stipulated in the Regulations.

第七條之一 執行業務單位依本辦法提供之業務資料，應由該單位負責保管。
研發處應妥善保管處理利益衝突案件所生各項表單、申訴書、調查結果、會議紀錄及相關文件，於結案後，相關文件應保存十年。
研發處得視需求，委託第三方查核第一項資訊之真實性。

Article 7-1 The unit undertaking the matter shall be responsible for safeguarding the data and documents of the matter provided in accordance with the Regulations.

The Office shall properly safeguard all forms, appeals, investigation results, meeting minutes, and related documents generated in the handling of conflict of interest cases. After the case is closed, these related documents shall be retained for ten years.

The Office may, as needed, commission third-party audits to verify the accuracy of the information in the first paragraph.

第八條 研發處應規劃適當訓練課程，以加強同仁利益衝突迴避及資訊揭露之認知與瞭解。

Article 8 The Office should organize appropriate training sessions to strengthen colleague's awareness and understanding of conflict of interest avoidance and information disclosure.

第九條 就有無利益衝突無法達成協議時，得由產學與育成中心主管及有關當事人各指定專家 2 人及共同洽訂之法律專家 2 人，組成調解委員會，對於相關事宜進行了解，並提出具體建議，報請校長裁決。

Article 9 In cases where an agreement cannot be reached regarding the presence of a conflict of interest, a Mediation Committee may be formed. This committee will consist of two experts appointed by the head of the Industry Collaboration and Incubation Center, two experts appointed by the relevant parties, and jointly appointed legal experts. The committee will conduct an inquiry into the matter, provide specific recommendations, and submit them for the decision of the President.

第十條 違反本辦法之當事人或關係人，除依本校人事相關辦法，為適當懲處或處置外，將依法追究民、刑事責任。

Article 10 The party or related parties who violate these regulations shall, in addition to being subject to appropriate disciplinary measures or actions in accordance with the relevant personnel regulations of the University, will also be held liable under civil and criminal laws.

第十一條 本校研發處得對運用本校資源所產生之研究成果進行了解，如有重大案件或研發成果運用案經校長核定確有利益衝突違反本辦法之情事時，研發處應將調查結果及處理方式，提報相關主管機關及研發成果資助機關備查。

- Article 11 The Office of the University may inquire into the research outcomes resulting from the use of university resources. In cases of significant incidents or instances where the utilization of research outcomes has been approved by the President and is found to be in violation of these regulations due to a conflict of interest, the Office shall report the investigation results and the course of action to the relevant competent authorities and funding agencies for their records.
- 第十二條 本辦法所提利益衝突迴避及揭露對象、範圍及程序要件等相關資訊，公告於研發處網站。
研發處應妥為管理利益衝突之案件資訊，並彙整其案件類型及件數資訊定期公告於研發處網站。
- Article 12 Information related to the subjects, scope, and procedural requirements of conflict of interest avoidance and disclosure as stipulated in the Regulations is posted on the Office's website. The Office shall effectively manage information related to conflict of interest cases and periodically compile information on the types and numbers of such cases for publication on the Office's website.
- 第十三條 本辦法如有未盡事宜，悉依政府有關法令規定辦理。
- Article 13 Matters not covered by the Regulations shall be handled in accordance with relevant government laws and regulations.
- 第十四條 本辦法經行政會議通過後實施。
- Article 14 The Regulations herein shall be promulgated upon approval by the Administrative Affairs Meeting.