

銘傳大學執行政府科技計畫研發成果運用利益衝突迴避及資訊揭露管理辦法

Ming Chuan University Procedures for Avoiding Conflict of Interest and Managing Information Disclosure of Governmental Science Project Research Achievement

中華民國 102 年 11 月 18 日第 265 次行政會議通過

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第一條 管理目的

為確保科學技術研究發展計畫（以下簡稱科技計畫）研發成果之運用符合公平及效益原則，並建立資訊揭露及利益衝突迴避規範，依「科學技術基本法」第六條第三項、「政府科學技術研究發展成果歸屬及運用辦法」第五條及「經濟部科學技術研究發展成果歸屬及運用辦法」第十二條之一規定，制定銘傳大學執行政府科技計畫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 Purpose of Management

Ming Chuan University Procedures for Avoiding Conflict of Interest and Managing Information Disclosure of Implementing Governmental Science Project Research Achievement (herein refer to as these procedures) are stipulated in accordance with Paragraph 3, Article 6 of the Fundamental Science and Technology Act, Article 5 of “Regulations for Ownership and Utilization of Governmental Scientific and Technological Research and Development Achievements” and Article 12-1 of “Ministry of Economic Affairs Regulations for Ownership and Utilization of Governmental Scientific and Technological Research and Development Achievements” for the purpose of ensuring the fairness and efficiency of the utilize of research achievements and establish regulations of information revealing and avoiding conflict of interest.

第二條 權責單位及適用範圍

- 一、本辦法權責單位為本校創新暨產學營運處。
- 二、本辦法適用範圍係為本校執行政府機關（構）補助、委託或出資之科技計畫研發成果運用業務。政府機關（構）指中央、地方各級機關及其設立之實（試）驗、研究、文教、醫療及特種基金管理機構。

Article 2 Competent Authority and eligibility

1. The competent authority of these procedures is MCU Innovation and Industry-Academia Collaboration Division.
2. The eligibility of these Regulations shall mean utilizing affairs of research achievement of science and technology projects subsidized, entrusted or funded by governmental institutes. Governmental institutes (organizations) shall refer to central or local governmental institutes, and experimental, research, humanities, education, medical and specialized funded foundations established by these institutes.

第三條 名詞定義

- 一、研發成果：係指本校專任教師執行政府機關（構）編列科技計畫預算，補助、委託或出資之科技計畫所產生之技術、原型、著作等成果，及因而取得之各項國內外智慧財產權。
- 二、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：
 1. 動產、不動產。
 2. 現金、存款、外幣、有價證券。
 3. 債權或其他財產上權利。

4. 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：係指有利執行業務相關人員或其關係人於本校或其他機構之任用、陞遷、調動及其他人事措施。

三、利益衝突：係指執行業務人員執行科技計畫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。

四、本辦法所稱執行業務人員，係指本校執行前款業務之申請人員、審查人員、承辦人員、核決人員或決行人員及其他參與相關事項人員。

五、本辦法所稱關係人，係指：

(一)執行業務人員之配偶或與其共同生活之家屬。

(二)執行業務人員之二親等以內血親或姻親。

(三)執行業務人員或其配偶信託財產之受託人。

(四)執行業務人員及本款第一目、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。

Article 3 Definition

1. Research and development achievements: refer to MCU full-time faculty's techniques, prototype and works of science and technology projects subsidized, entrusted or funded by governmental institutes and is granted domestic or foreign intellectual property rights.
2. The interests under this Principle include proprietary interests and non-proprietary interests.
 - (1) Proprietary interests shall refer to interests in the following property:
 1. Personal property and real estate.
 2. Cash, deposits, foreign currencies, and marketable securities.
 3. Creditor's rights or other proprietary interests.
 4. Other interests having economical values or acquirable through monetary transactions.
 - (2) Non-proprietary interests refer to appointments, promotions, job transfers and other personnel measures in favor of a party or any of his/her affiliates at MCU or an enterprise receiving a technology transfer from MCU.
3. Conflicts of interest: refer to any situations that allow a party or any of his/her affiliates directly or indirectly gain interests through any act or omission of the party in the course of utilizing research achievements of science projects.
4. The parties under these procedures shall mean applicant, reviewer, responsible personnel, and approval personnel and other relevant personnel.
5. The affiliates of a party under these procedures shall include the following people:
 - (1) The party's spouse or family members living with the party.
 - (2) The party's relatives within the second degree of kinship.
 - (3) Trustees who are trusted by the party or his/her spouse with property management.
 - (4) The party or any person under Subparagraph (1) or (2) is the representative, or a director, supervisor, or managerial officer.

第四條 資訊揭露事項及程序

一、資訊揭露指科技研發成果之計畫主持人／共同或協同主持人以及其他發明人、關係人，承辦或決行科技移轉案相關人員與本校以外之其他單位，於管理或運用研發成果有關行為，在財產或非財產上之利益關係，而使本校有受損害之虞時，應主動向本校創新暨產學營運處揭露，或以簽呈會簽相關單位及創新暨產學營運處，以避免利益衝突或不法輸送。

二、執行科技計畫研發成果運用之作業相關人員，對於下列事項，應主動填報「銘傳大學科技計畫研發成果利益迴避或資訊揭露表」，向本校權責單位創新暨產學營運處揭露：

(一)行政人員，如具影響承辦業務之客觀性、公平性之情事，應主動揭露。

(二)申請人員、審查人員、核決人員或決行人員如與校外單位之負責人／董監事或其

關係人間，如為利益關係人，應以書面主動揭露。

(三) 專利發明人、技術創作人，如有非職務上之研發成果，應依本校研究發展成果及技術移轉管理辦法第四條第二款規定，主動通報創新暨產學營運處。

(四) 其他涉及財務或非財務上之利益關係，有為資訊揭露必要之事項。

Article 4 Information disclosure and relevant procedures

1. Information disclosure refer to situation when research project principle Investigators / co-principle Investigator(s) and other inventor, affiliates or personnel conduct a technology transfer with other relevant units off-campus and found there might be damages to MCU, regarding management or achievement utilization behavior, or proprietary interests and non-proprietary interests, he/she shall disclose situations to MCU Innovation and Industry-Academia Collaboration Division or with official documents circulated in relevant units and Innovation and Industry-Academia Collaboration Division in which conflicts of interests may occur to avoid conflict of interest or illegal transmission.
2. Personnel conduct a technology transfer of research achievement shall fill out “Ming Chuan University Science Project Research Achievement Conflict of Interest Avoidance or Information Disclosure Form” on one’s initiative to disclose with the competent authority Innovation and Industry-Academia Collaboration Division.
 - (1) Administrative staff: Shall disclose matters effecting the objectivity and fairness when conducting work.
 - (2) Written notice of information disclosure is required under the circumstance that applicant, reviewer, responsible personnel, and approval personnel are affiliates with the representative, or a director, supervisor, or managerial officer of the off-campus unit.
 - (3) Patent holder and technology inventor should initiatively report non-work related research results to Innovation and Industry-Academia Collaboration Division in accordance with Paragraph 2, Article 4 of “Ming Chuan University Procedures for Management of Research and Development Outcomes and Technology Transfer”
 - (4) Other financial or non-financial related interests are necessary items for information disclosure.

第五條 揭露資訊之管理及相關權益保障

- 一、有關揭露、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，所有資訊應予以保密。
- 二、事件處理過程中之審查人員應致力於客觀、公正、公開之審查程序，審查過程應不為或不受任何請託、關說，確保審查作業品質及揭露人之權益保障，且不得藉由審查作業獲取直接或間接不當利益。審查人員如有符合本辦法第三條第三款（一）～（四）關係人之情形，應自行迴避。
- 三、執行業務人員辦理案件使用相關資料或文件時，應遵守本辦法、個人資料保護法、營業秘密法及其他法令規定，必要時，得要求相關人員簽署保密契約。

Article 5 Management of information disclosure and right protection

1. The processing schedule, data and relevant information regarding information disclosure and conflict of interest are classified and all data should be kept confidential.
2. The reviewing personnel must follow the principle of objective, fairness, and apparent during the processing of case. Lobbying is not allowed during the reviewing process to ensure process quality and to protect the disclosure personnel’s rights. Directly or indirectly acquire illegal

benefits during the reviewing process is prohibited. Reviewing personnel meeting the condition of paragraph 3 (1)-(4), article 3 of these procedures should avoid the case.

3. Relevant data and documents used by implementing personnel when conduct the case shall abide to these procedures, Personal Information Protection Act, Trade Secret Act and other laws. When necessary, personnel will be requested to sign non-disclosure agreements.

第六條 內部控管

- 一、執行業務部門依本辦法提供之業務資料，應由該部門負責保管。
- 二、權責單位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，相關文件保存十年。
- 三、權責單位得視需求，委託第三方查核第一項資訊之真實性。

Article 6 Internal control

1. Relevant document provided by affairs implementing division in accordance with these procedures shall be kept by the division.
2. Competent authority are required to safe keep all forms, appealing statement, investigation results, meeting minutes and relevant documents of cases of handling conflict of interest. The document shall be kept for 10 years after the case closed.
3. Competent authority may entrust a third party to review and assess the authenticity of the data of item 1.

第七條 教育訓練之措施及作法

- 一、權責單位得會同校內各部門，不定期於校內舉辦研發成果運用之利益衝突迴避與資訊揭露相關教育訓練課程。
- 二、為防止同仁因執行研發成果運用業務，產生利益衝突而未予迴避之情事發生，各部門主管應利用集會、電子郵件或內部文件等各種傳遞訊息的方式與機會，加強宣導利益衝突迴避及資訊揭露之正確觀念。

Article 7 Educational training and method

1. Competent authority may cooperate with other divisions on campus to randomly hold on-campus educational training courses of avoiding conflict of interest and information disclosure when using research achievements.
2. To avoid circumstances of failing to avoid conflict of interest when implementing research achievement, directors of each division shall enhance to promote the correct ideas of avoiding conflict of interest and information disclosure through various information communication opportunities, such as assembly meetings, via email or internal documents.

第八條 爭議案件審議程序

- 一、權責單位對於執行科技計畫研發成果運用業務相關人員，如有利益衝突或應迴避而未迴避情事發生，或經檢舉之利益衝突案件時，得依個案召開產學暨研發推動委員會（以下簡稱產推會），以審議利益衝突與迴避案件。
- 二、產推會應於二個月內完成調查，必要時，得延長一個月。應主動迴避人員未迴避，仍可由權責單位請求產推會審議決議通過後要求迴避。
- 三、產推會依據相關事證及理由，應一併提出本研發成果運用案之後續處理方式，及利益衝突人員之處置建議。
- 四、產推會委員與利益衝突人員間若有符合本辦法第三條第三款（一）～（四）關係人之

情形，應自行迴避。

五、權責單位應將調查結果以書面通知檢舉人、利益衝突人員及相關部門。利益衝突人員對調查結果不服者，應於通知期限內，向權責單位提出申訴。

六、前項申訴應以書面為之，申訴人應記載下列事項，並於申訴書上簽名：

(一) 申訴人之姓名。

(二) 申訴事實及理由。

(三) 證據。

(四) 日期。

七、權責主管部門收受前項申訴書後，應依本條第一款規定召開產推會，審查程序準用本條第二至第四款規定處理。申訴審查結果經校長核定後，應通知申訴人。

八、申訴人就前款申訴結果，不得再聲明不服。

Article 8 Dispute cases reviewing procedure

1. Under the circumstances when implementing research achievements of science projects, when there are conflict of interest but personnel fail to avoid when they should have to, or when conflict of interest case is reported, competent authority shall summon Academia-Industry Research Promotion Committee(herein refer to as AIRPC) Meeting to review the cases of avoiding conflict of interest.
2. AIRPC are required to complete the investigation within two months, one month extension is allowed when necessary. When personnel who must avoid but fails to avoid, competent authority may request the personnel to avoid after the resolution of AIRPC meeting is passed.
3. AIRPC shall raise the subsequent processing of the research achievement case and suggestions of handling personnel regarding conflict of interest based on the evidence and causes of the case.
4. Should AIRPC member or personnel of conflict of interest meets the standard of Item 3 (1)-(4), Article 3, he or she must avoid attending the session and refrain from becoming involved with the review.
5. Competent authority must inform prosecutor, personnel involving in conflict of interest and relevant divisions of the resolution with written notice. If the claimant does not agree with the resolution, he or she may appeal to the competent authority within the limited time.
6. The said appeal must be made in written form, include following items and signature of claimant is required:
 - (1) The name of claimant.
 - (2) Fact and reason of the appeal.
 - (3) Evidence.
 - (4) Date.
7. Upon receiving the appeal, competent authority division shall summon AIRPC meeting in accordance with item 1 of this Article, the reviewing process could be dealt with Article 2-4 of this Article. The appeal reviewing result will be approved by the president and then sent to inform the claimant.
8. The claimant cannot disagree with the resolution of the above appeal meeting.

第九條 違反規定之處置及效果

執行科技計畫研發成果運用業務相關人員，如有利益衝突或應迴避而未迴避情事發生之行為，造成本校名譽或非名譽上之財產損失，應負擔管理或運用研發成果有關之行為過程中所有損害賠償責任，除依本辦法第八條第三款處置外，將依法追究民、刑事責任。

Article 9 The handling of regulation violation and results

When personnel implementing science project research achievement caused reputational damage or property damage due to conflict of interest or behaviors that fail to avoid the matters one should avoid, the personnel will be requested to responsible for all the damages caused during the management or relevant behavior of implementing research and development achievement in accordance with Item 3 Article 8 of these procedure.

Violations shall constitute responsibility subject to the applicable civil or criminal laws.

第十條 重大案件之內部及外部通報程序

研發成果運用案經產推會審議確認，陳報校長後，應依發生利益衝突案件之研發成果所屬資助機關之研發成果歸屬運用辦法相關規定，將調查結果及處理方式提報研發成果資助機關備查。

Article 10 Major case internal and external reporting procedure

Research achievement application shall be reviewed and confirmed by AIRPC and approved by the president. It should be categorized to the original case of conflict of interest in accordance with the research achievement categorization procedures of the subsidized organization. The investigation results and handling methods shall be reported to the subsidized organization for reference.

第十一條 實施日

本辦法經行政會議通過，校長核定後實施，修正時亦同。

Article 11 Implementation and Revision

Upon being passed at the Administrative Council Meeting and approved by the president, these procedures were implemented. Any revision must follow the same procedure.

In the event of any inconsistency or discrepancy between the Chinese and other language versions of this document, the Chinese version shall prevail.