

高雄醫學大學研發成果管理及運用之利益衝突迴避處理辦法

Regulation for the Avoidance of Conflicts of Interest in the Management and Utilization of Research and Development Results

102.10.17 102 學年度第 1 次校務會議通過
2013.10.17 Passed in the 1st University Council of the 102nd academic year
102.11.05 高醫產學字第 1021103412 號函公布
2013.11.05 Announced in the GaoYiChanXueZi No. 1021103412 Letter
105.07.06 104 學年度第 2 次臨時校務會議通過
2016.07.06 Passed in the 2nd Ad-hoc University Council of the 104th academic year
109.12.24 109 學年度第 2 次校務會議通過
2020.12.24 Passed in the 2nd University Council of the 109th academic year
110.01.13 高醫產學字第 1101100067 號函公布
2021.01.13 Announced in the GaoYiChanXueZi No. 110110006 Letter

第 1 條 Article 1

本校為辦理研發成果管理及運用之利益衝突迴避案件，依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及科技部科學技術研究發展成果歸屬及運用辦法之規定訂定本辦法。

The Kaohsiung Medical University (hereinafter "KMU") hereby establishes this Regulation for the Avoidance of Conflicts of Interest in the Management and Utilization of Research and Development Results (hereinafter "the Regulation"), in accordance with 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 Science and Technology Scientific and Technological Research and Development Results Ownership and Utilization Regulation.

第 2 條 Article 2

本辦法名詞定義如下：

Definitions of Terms for the Regulation are as follows:

一、當事人：係指本校參與研發成果創作之教職員工生(以下簡稱研發成果創作人)或執行研發成果管理及運用相關業務之教職員工。

1. Parties: Refers to the staff, faculty, and students of KMU involved in the creation of research and development outcomes (hereinafter "creators of research and development results") or those executing the management and application of related research and development results.

二、利益衝突：指當事人執行相關業務時，因其作為或不作為而直接或間接使當事人或其關係人獲取利益者。

2. Conflict of Interest: A situation where a party, due to action or inaction, directly or indirectly benefits themselves or their associates while performing related duties.

三、利益：

3. Interests:

(一)財產上利益：動產、不動產、現金、存款、外幣、有價證券、債權、財產上權利、其他具有經濟價值或得以金錢交易取得之利益。

(1) Property Interest: Includes movable property, immovable property, cash, deposits, foreign currency, securities, claims, proprietary rights, and other benefits with economic value or which can be acquired through financial transactions.

(二)非財產上利益：指當事人或其關係人於本校或運用本校研發成果營利事業之任用、陞遷、調動及其他人事措施。

(2) Non-property Interest: Refers to the employment, promotion, transfer, and other personnel actions concerning the party or their associates

within KMU or in the operation of businesses utilizing KMU's research and development results.

第 3 條
Article 3 除法令另有規定或經本校書面同意外，當事人或其關係人不得將本校研發成果擅自運用、提出專利申請、提供予第三者或自行籌設營利事業。

Except as otherwise provided by law or with written consent from KMU, the parties or their associates shall not unauthorizedly utilize KMU's research and development results, file for patent applications, provide them to third parties, or establish their own profit-making ventures.

第 4 條
Article 4 本校研發成果利益衝突迴避之管理機制、利益衝突相關資訊之申報與揭露及內、外部通報等事宜，由產學營運處智財保護與科技管理組(以下簡稱智管組)專責處理。

Management of conflicts of interest in the research and development results of KMU, including the avoidance mechanisms, declaration and disclosure of relevant conflict-of-interest information, and both internal and external reporting matters, shall be exclusively handled by the Intellectual Property Protection and Technology Management Section of the Office for Operation of Industry and University Cooperation (hereinafter "the IP Management Section").

本校研發成果管理及運用之利益衝突迴避案件，應經研發成果管理委員會(以下簡稱研管會)審議。

Cases of conflict of interest in the management and utilization of research and development results at KMU shall be reviewed by the Research and Development Results Management Committee (hereinafter referred to as the Management Committee).

第 5 條
Article 5 研發成果創作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，並填具「研發成果管理及運用利益揭露表」；約定於授權或讓與研發成果後取得者亦同：

Creators of research and development results should proactively disclose any of the following interests with the profit-seeking enterprise to which the research and development results are intended to be licensed or transferred, and complete the "Interest Disclosure Form for the Management and Utilization of Research and Development Results"; the same applies to the acquirers after the licensing or transfer of research and development results.

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。

1. The individual and their spouse or minor children have, in the preceding year, obtained a cumulative financial benefit exceeding the amount of NTD 150,000 from the profit-seeking enterprise, or hold more than five percent of the equity in said enterprise.

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。

2. The individual, his/her spouse, children, parents, grandparents, grandchildren, or siblings serve in a managerial capacity as the responsible person, director, supervisor, or manager of the profit-seeking enterprise.

研發成果創作人得參與研發成果之推廣及洽談，但應迴避其研發成果管理或運用案件之審議或核決。

Creators of research and development results may participate in the promotion

and negotiation of said results; however, they shall recuse themselves from the deliberation or decision-making processes regarding the management or application of their research and development results.

第 6 條
Article 6

簽辦、審議或核決研發成果管理或運用案件之相關人員，與被授權或讓與研發成果之營利事業間有下列利益關係者，應自行迴避：

Individuals involved in the endorsement, review, or approval of research and development results management or utilization cases shall recuse themselves if they have the following conflicts of interest with the profit-seeking enterprises to which the research and development results are authorized or transferred:

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。

1. The individual and their spouse or minor children have, in the preceding year, obtained a cumulative financial benefit exceeding the amount of NTD 150,000 from the profit-seeking enterprise, or hold more than five percent of the equity in said enterprise.

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。

2. The individual, his/her spouse, children, parents, grandparents, grandchildren, or siblings serve in a managerial capacity as the responsible person, director, supervisor, or manager of the profit-seeking enterprise.

第 7 條
Article 7

本校知悉研發成果創作人或簽辦、審議或核決研發成果管理或運用案件之人員，有第5條或前條應自行迴避之情事而未迴避者，應命其迴避。

In the event that an individual of KMU involved in the creation of research and development results or in the signing, reviewing, or decision-making processes of the management or application of such results was found to have a conflict of interest as described in Article 5 or the preceding article and has failed to recuse themselves, he/she shall be ordered to do so.

有應自行迴避之情事而未迴避者，利害關係人得向智管組申請其迴避。

In the event that an individual fail to recuse themselves in circumstances that require self-recusal, interested parties may request their recusal through the IP Management Section.

第 8 條
Article 8

對於當事人是否應予揭露資訊或迴避有爭議或疑義時，應召開研管會審議，並應提供當事人陳述意見之機會。

In instances where there is dispute or doubt regarding whether a party should disclose information or recuse himself/herself, a Research Management Committee meeting shall be convened to deliberate on the matter, and the party shall be provided with an opportunity to present his/her views.

當事人因故意或重大過失未依本辦法規定揭露資訊或迴避者，研管會應提出具體處理意見，陳報校長核定。

Should a party fail to disclose information or recuse themselves as mandated by the Regulation due to intentional or gross negligence, the Research Management Committee shall propose specific resolutions for submission to the President for review and approval.

第 9 條
Article 9

研發成果創作人填具之「研發成果管理及運用利益揭露表」及其他必要資訊，由智管組依個人資料保護法、營業秘密法與其他相關法令規定進行管理。

The "Interest Disclosure Form for the Management and Utilization of Research and Development Results" completed by the creators of research

and development results, along with other necessary information, shall be managed by the IP Management Section in accordance with the Personal Data Protection Act, Trade Secrets Act, and other relevant legal provisions.

第 10 條
Article 10

本校每年應辦理利益衝突迴避及資訊揭露之教育訓練。
KMU shall annually conduct education and training on conflict-of-interest avoidance and information disclosure.

第 11 條
Article 11

爭議案件審查程序與措施：

Dispute case review procedures and measures:

一、檢舉人應使用真實姓名並檢附證據，以書面向本校智管組提出利益衝突案件檢舉；其以化名、匿名為之，或無具體事證者不予受理。

1. Whistleblowers must use their real names and attach evidence when submitting written reports of conflict-of-interest cases to KMU's IP Management Section. Reports filed under pseudonyms, anonymously, or without concrete facts will not be accepted.

二、智管組接獲檢舉或知悉利益衝突之案件後，應速簽陳校長核定，並以書面敘明事由及證據，送研管會辦理。

2. Upon receipt of a report or awareness of a conflict-of-interest case, the Intellectual Property Management Division shall promptly submit it to the President for review and approval, and shall send the case, with written statements of reasons and evidence, to the Research Management Committee for processing.

三、疑似違反本辦法之利益衝突案件，得由研管會主任委員遴聘與系爭案件學術領域相關之學者專家及法律專業人士共計三至五名組成調查小組進行調查，如調查小組成員具第 6 條第 1 項各款所定利益關係者，應行迴避。

3. Cases of suspected conflict of interest in violation of the Regulation may be investigated by an inquiry panel composed of three to five members, including scholars, experts in the academic field related to the case, and legal professionals, appointed by the Chief of the Research Management Committee. Should any members of the inquiry panel have an interest as defined in the various provisions of Article 6, Paragraph 1, they must recuse themselves.

四、調查小組基於調查事實及證據之必要，得採取下列措施：

4. The inquiry panel, as required by the facts under investigation and the evidence, may adopt the following measures:

(一)要求被檢舉人提出必要之資料、物品或書面答辯。

(1) Require the respondent to provide necessary materials, items, or a written defense.

(二)請求被檢舉人所屬單位協助調查。

(2) Request the department to which the respondent belongs to assist in the investigation.

(三)通知被檢舉人、利害關係人或其他有助於調查之人到場陳述意見。

(3) Notify the respondent, parties with an interest, or others whose presence would aid the investigation to appear and present their views.

五、調查小組應於組成後六個月內完成記載事實、證據、理由及調查結果之調查

報告，必要時得延長二個月，且調查報告原則上不公開，並以密件方式提交研管會進行審議。

5. The inquiry panel shall complete the investigation report, which records the facts, evidence, reasons, and findings within six months after its establishment. If necessary, the period may be extended by two months. Furthermore, the report shall generally not be made public and shall be submitted to the Research and Development Management Committee for review in a confidential manner.

六、案件經調查後認為無違反利益衝突之情事者，由研管會審議確認後陳報校長，並通知被檢舉人及檢舉人；必要時並應通知利害關係人。

6. If, after investigation, a case is deemed not to violate a conflict of interest, it shall be reviewed and confirmed by the Research and Development Management Committee, reported to the President, and the respondent and the whistleblower shall be notified; when necessary, parties with an interest shall also be informed.

七、案件經調查後認為有違反利益衝突之情事者，應將調查報告送達被檢舉人並通知被檢舉人陳述意見，研管會應斟酌被檢舉人陳述意見與調查事實及證據之結果進行審議，並將其決定及理由載明於紀錄。

7. If an investigation determines that there has been a violation of conflict of interest, the investigation report shall be delivered to the respondent, and the respondent shall be notified to present his/her opinion. The Research and Development Management Committee shall deliberate, taking into consideration the respondent's statements, the investigative facts, and evidence, and shall record its decision and the reasons thereof.

八、研管會審議確認被檢舉人有違反利益衝突之情事者，應按決議內容，載明被檢舉人違反利益衝突之事實、證據、陳述及答辯之要旨，作成適當處理之具體建議，陳報校長核定後，送達檢舉人、被檢舉人、被檢舉人所屬單位及資助機關。

8. Upon confirmation of a conflict-of-interest violation by the respondent, the Research and Development Management Committee shall, in accordance with the resolution, specify the facts, evidence, key points of statements, and defenses concerning the respondent's violation of the conflict of interest. Concrete suggestions for appropriate action shall be made, submitted to the President for approval, and then delivered to the whistleblower, the respondent, the unit to which the respondent belongs, and the sponsoring agency.

第 12 條
Article 12

當事人及其關係人不得因執行本校研發成果管理及運用業務而收受或獲取利益，致本校遭受財產或名譽上之損失，須負擔相關法律責任。

Parties involved and their related persons shall not accept or gain benefits from executing KMU's management and application operations of research and development results, causing financial or reputational damage to KMU; otherwise, they shall bear relevant legal responsibilities.

第 13 條
Article 13

本辦法經校務會議審議通過後，自公布日起實施，修正時亦同。

After being reviewed and approved by the University Council, the Regulation shall be implemented from the date of announcement, and the same applies to amendments.

