

Title 4 - Codification of Board Policy Statements

Chapter 11

DESERT RESEARCH INSTITUTE (DRI) BUSINESS MANAGEMENT

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Section 1. General Policy

1. The Desert Research Institute (DRI) is a unique institution among the institutions of the NSHE. It is exclusively designed to foster, encourage and promote pure and applied research for industry, government, educational organizations and the public in general. Given the nature of its operation and non-state sources of funding, its fiscal and personnel policies and procedures must differ significantly from those policies and procedures which are applicable to the other institutions of the NSHE, a fact which is recognized and mandated by the Legislature in *Nevada Revised Statutes* (NRS) 396.7953 through NRS 396.7955.
2. Specifically, the Board of Regents affirms that, consistent with state law, compensation packages for DRI's executive and professional employees may be established, with Board of Regents' approval, with incentive and/or merit components that are separate and distinct from the other institutions of the NSHE.
3. In conformance with NRS 396.7953, the Board of Regents hereby specifically states and declares that DRI is not bound by, among other provisions, NRS 286.3007.
(B/R 10/94)

Section 2. Financial Program Statements

1. The Desert Research Institute shall annually develop detailed program statements by related functional groups.
2. Such statements shall be submitted through the usual budget review channels.
(B/R 6/05)

Section 3. Employment of Noncitizens

Subject to the concurrence by the Board of Regents in each case, the Desert Research Institute may pay the salaries of resident noncitizens¹ employees from State appropriated funds.
(B/R 6/23)

Section 4. Contingency Fund

1. There is hereby created the Desert Research Institute Contingency Fund.
2. The purpose of such fund is to provide for the continuation of programs and staff when funding from other sources is imminent or highly probable, but formal notification of funds has not been received or contracts assigned.
3. Disbursement from such Contingency Fund shall be made upon approval of the President of the Desert Research Institute.

¹ "Noncitizen" is equivalent to the statutory term "alien" (8 U.S.C. § 1101 (a)(3))
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4. All funds drawn from the Desert Research Institute Contingency Fund shall be reimbursed. Such reimbursement shall be made from the grant funds received on the project making the request. Otherwise, such reimbursement shall be made from the Desert Research Institute operating funds.

(B/R 6/05)

Section 5. Accounting and Personnel

1. All Desert Research Institute monies shall be deposited with the Treasurer of the University and he or she shall cause appropriate funds to be established for proper accounting.
2. Monies used for Desert Research Institute administration shall be subject to the estimative budget procedure.
3. Each Desert Research Institute project shall be accounted for in conformity with the regulation of the granting agency.
4. The Board of Regents may deviate from established regulations relating to the appointment of, salaries for, and regulations governing professional members of the Desert Research Institute staff, upon the recommendation of the President thereof.
5. Nonprofessional staff of the Desert Research Institute may be under the technical service, at the discretion of the President.
6. Employees of the Desert Research Institute shall observe all state laws and NSHE regulations concerning travel, except that (a) in-state rental of vehicles from non-state sources is permissible; and (b) travel may be reimbursed per federal government regulations when travel is reimbursed by non-state appropriated funds.

(B/R 6/05)

Section 6. Purchasing

Desert Research Institute purchases may be made:

1. In conformity with general NSHE purchasing procedures, or
2. By use of a special purchase order form, initiated by the principal investigator, which shall:
 - (a) Inform vendors that the purchase is made under special NSHE purchasing regulations and not under the State Purchasing Act.
 - (b) Not be processed through the NSHE Buyer or the State Purchasing Division.
 - (c) Clear the NSHE accounting office for encumbrance purposes.
 - (d) Be accompanied by a memorandum of justification when required by the President.

3. When requested, the NSHE Purchasing Office shall furnish such information as may be possible concerning vendors and prices.
(B/R 6/05)

Section 7. Project Files

The Chancellor shall establish procedures concerning the maintenance of the Desert Research Institute's project files.
(B/R 12/04)

Section 8. Inventory of Equipment

All equipment assigned to the Desert Research Institute shall be inventoried and subject to the same controls as all other NSHE equipment.
(B/R 3/65)

Section 9. Indirect Cost Recovery

1. Indirect cost or overhead monies generated by Desert Research Institute research projects shall be distributed as follows:
 - (a) Ninety-five percent of all such recovery to be paid into a fund for use by DRI for any purpose justifiably chargeable to such indirect cost funds; and
 - (b) The remaining five percent of such indirect cost recovery to be paid into a separate fund for use by principal investigators.
2. Expenditures of monies shall be subject to the same provisions as other Desert Research Institute expenditure of grant funds.
(B/R 6/05)

Section 10. Appropriated Funds

All monies appropriated by the Legislature for purposes of the Desert Research Institute shall be expended in compliance with State law and Board policy.
(B/R 3/65)

Section 11. Confidentiality of Contracts

Nevada Revised Statutes 396.7951 authorizing the creation of the Desert Research Institute states that one of the purposes for establishing DRI is conducting of applied research for industry, governmental or private agencies or individuals. The objective is two-fold: first, to be of assistance to private and governmental agencies; and secondly, to produce additional revenue to further the purposes of the Desert Research Institute. The Desert Research Institute is

authorized and encouraged to develop private research contracts. Where the needs of the contract require that the results of the research be held confidential, a clause preserving such confidentiality may form a part of the contract and the preservation of such confidentiality in prior or future contracts is expressly ratified and approved by this Board. All contracts for applied research with private industry shall, at a minimum, provide sufficient revenue to cover the cost to the NSHE.
(B/R 5/75)

Section 12. Compensated Outside Professional Services

(For NSHE General Policy, See Title 4, Chapter 3, Sec. 8)

1. Under conditions set forth below, limited professional services rendered by a Desert Research Institute (DRI) faculty member to organizations or individuals outside of DRI for compensation is recognized as a legitimate, and often desirable, activity for a faculty member.
2. Outside professional or scholarly service as contemplated by this section shall not adversely affect the performance of the faculty member in regard to his or her obligation and duties to DRI. A faculty member is to perform compensated outside professional activities on his or her own time. For the purposes of this section, compensated outside professional or scholarly service does not include work conducted as part of the regular duties of, or the professional responsibilities of, the faculty member, such as serving on a national review board.
3. No faculty member may undertake outside professional or scholarly service that would result in a conflict of interest with his or her assigned duties. Conflict of interest means any outside activity or interest that may adversely affect, compromise, or be incompatible with the obligations of an employee to the institution.
4. DRI faculty members performing compensated outside professional or scholarly service are subject to the code of Ethical Standards of the State of Nevada (*Nevada Revised Statutes* (NRS) 281A.400-281A.480 and 281A.500-281A.660), which governs the conduct of public officers and employees.
5. A faculty member may not perform an official act on behalf of the institution that directly benefits a business or other undertaking in which he or she either has a substantial financial interest or is engaged as counsel, consultant, representative, agent, director, or officer. This prohibition is not intended to limit a faculty member's ability to enter into a contract between a governmental entity, the institution, and a private entity to the extent authorized by, and in conformity, with NRS 281.221(3), NRS 281.230(3), NRS 281A.430(3), the Board of Regents Intellectual Property Policy (Title 4, Chapter 12, Sections 1-8), and the Board of Regents Conflict of Interest Policy (Title 4, Chapter 10, Section 1.7).
6. For the purpose of this section, potential conflicts of interest include a faculty member's involvement in transactions or decisions on behalf of an institution, in which the faculty member knows that benefits accrue to individuals in the faculty member's household, persons to whom the faculty member is related by blood, adoption or marriage within the third degree of consanguinity, or persons with whom the faculty member has substantial and continuing outside business relationships.

Relationships within the third degree of consanguinity or affinity are defined as:

- (a) The faculty member's spouse, child, parent, sibling, half-sibling, or step-relatives in the same relationship;
- (b) The spouse of the faculty member's child, parent, sibling, half-sibling, or step-relative; or
- (c) The faculty member's in-laws, aunt, uncle, niece, nephew, grandparent, grandchild, or first cousin.

7. Except as otherwise provided in this section a full-time faculty member engaged in providing compensated outside professional service shall provide advance notification and request approval in writing to his or her supervisor, i.e., the executive director of the division or the appropriate vice president if not in a division, of the nature of the work to be performed, the company/organization for which the work will be performed, and the amount of his or her time likely to be involved. The request must be approved in advance by the supervisor within 10 working days and shall indicate that the intended compensated outside professional service is not in conflict with any obligations currently incurred or assumed by the Institute. Activity in new areas not presently a regular part of the DRI efforts will not be considered to be in conflict even if DRI subsequently moves into such work. Individual requests to perform outside professional or scholarly service shall be considered confidential personnel documents pursuant to Title 2, Chapter 5, Section 5.6.2. of the Code.

DRI may establish an expedited pre-approval process for notification of certain compensated outside professional or scholarly activities that are for a short-period, determined to be routine or standard, and compensated at \$3,000 or less per activity. Such services must be identified within the written pre-approval process established by DRI and may include activities such as service on a national panel, speaking engagements as allowed by the institution, and reviewing manuscripts.

8. When a supervisor believes that a faculty member's consulting activities conflict with the faculty member's obligations to the institution or other obligations of the institution, the supervisor shall inform the faculty member of these concerns and negotiate a mutually acceptable course of action. If a mutually acceptable course of action cannot be negotiated, the faculty member or the supervisor may request the DRI Senate to appoint a panel of three DRI professional members to hear and evaluate the evidence and make a recommendation to the president. The president will review the recommendation and render a final decision. The president may require the faculty member to cease performance of existing obligations while the faculty member remains a DRI employee.
9. Any faculty member performing outside professional service shall inform those who engage him or her that the faculty member is not acting in the name of the DRI and that the DRI is neither a party to the contract nor liable for any actions of such faculty member.
10. In negotiating for a contract or any contract activities for outside compensated professional service, a faculty member shall not use DRI stationery or forms in any manner.

11. Faculty members performing compensated outside professional or scholarly service are subject to the Board policy on personal use of System property or resources (Title 4, Chapter 1, Section 25). A faculty member working independently on an outside compensated contract shall not use DRI facilities, equipment or personnel not available to members of the general public unless such use is authorized in advance by the supervisor. Reimbursement of any added direct costs to DRI shall be in accordance with Title 4, Chapter 1, Section 25.
12. A faculty member working independently on his or her own time may obtain patents or copyrights on the results of his or her work, providing DRI resources were not used in the preparation of the inventions or copyrighted work.
13. It is the responsibility of each full-time faculty member to report outside compensated services in a timely manner and to certify the accuracy of the disclosures. Failure to disclose outside compensated services in a timely and accurate manner constitutes a basis for disciplinary action under Title 2, Chapter 6 of the Code. Records are to be kept annually by each supervisor of all approved consulting activities.
14. The Desert Research Institute shall publish an annual report regarding compensated outside professional or scholarly service completed by its full-time faculty, as aggregate data, and approved by the institution in accordance with the provisions of this section. This report will verify that all potential conflicts of interest have been reviewed and approved in accordance with the provisions of this section. A summary of these reports will be sent to the Board of Regents annually.

(B/R 6/14)

Section 13. Selection of Peer and Aspirational Institutions for DRI

1. At least every three years, the Desert Research Institute will recommend a list of three comparison peer institutions and no more than three aspirational institutions. Peer institutions will serve as the basis of comparison for outcomes in areas such as grants awarded, research expenditures, and other relevant metrics, particularly those associated with the NSHE strategic plan. Aspirational institutions will represent the general characteristics of the desired future state for DRI's strategic goals.
2. The recommended comparison peer institutions may include public and/or private entities that are similar to DRI in terms of characteristics, including but not limited to research revenue as reported to the National Science Foundation Higher Education Research and Development (HERD) survey, scientific productivity, size in terms of personnel, sponsorship and general research topic areas (e.g. basic and applied environmental research). The recommended aspirational institutions may include public and/or private entities and have characteristics that reflect DRI's strategic direction and reflect the institute's aspirational goals.
3. The recommended list of comparison peer and aspirational institutions will be submitted to the Chancellor's Office for review and feedback. Following review by the Chancellor's Office, peer and aspirational institutions will be submitted to the Board for approval.

(B/R 9/21)