

**MONTANA BOARD OF REGENTS OF HIGHER EDUCATION**  
**Policy and Procedures Manual**

SUBJECT: MISCELLANEOUS

Policy 1909 – Competition with the Private Sector

*Effective: March 25, 2004; Issued: April 8, 2004*

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**I. Board Policy:**

A. Campuses of the Montana university system (MUS) should engage only in activities consistent with their published and approved missions.

B. While in some instances it may be inevitable or necessary for a campus of the university system to engage in activities and services that may be in competition with the private sector, those activities should clearly be a by-product of the campus' effort to pursue its educational, research, and public service mission, or should contribute to the campus' ability to achieve its mission. Activities or services offered primarily to members of the campus community are not precluded by this policy.

C. It is the responsibility of each president and chancellor of the university system to review carefully activities that are marketed, appear to be focused on the generation of income, and that compete with the private sector. Because of the possibility of new businesses coming into the marketplace, this review will be conducted annually.

D. The review by the president and chancellor will include the appropriateness of pricing of goods and services in order to prevent an unfair cost advantage coming to a campus of the university system because of state support.

E. The review by the president and chancellor will ensure that the amount of resources invested in the activity is consistent with the relationship of the activity to the campus' mission and does not appear to have as its purpose growth or expansion beyond what is needed for achievement of that mission.

F. In all areas in which there may be competition with the private sector, the president or chancellor will make pro-active efforts to seek public/private partnerships, with a concern of ensuring fairness to all parties.

**II. Procedures:**

A. The commissioner of higher education, the presidents, and the chancellors of the MUS will make consistent efforts to inform the campuses and the public of the existence of this policy.

B. Review of activities will take place in the manner suggested by the flow chart appended to this policy.

C. Informal resolution process. Each campus chief executive officer will make clear to the campus community and the public the willingness to pursue informal resolution with any private sector organization that believes it has been the victim of unfair competition. The CEO should provide the campus rationale for engaging in the activity, including the documentation of the campus' internal review before the activity was initiated. During this phase, the development of public/private partnerships should be explored. The president and the commissioner will be informed at the time this type of concern is brought before the CEO.

D. Formal complaint process. Any private-sector organization not satisfied with the outcome of the attempt at informal resolution may file a written complaint with the university president. The written complaint should include specific violations of this policy. The university president will respond to the written complaint within two weeks of receipt of the complaint. If the complainant is not satisfied with the response of the president, the president's decision may be appealed to the commissioner. The commissioner has two weeks to rule on the appeal. The commissioner's decision may be appealed to the Board of Regents (BOR) in writing, and action on the appeal will be taken at the next regularly scheduled

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BOR meeting. The BOR is the final authority on what practices are in the best interests of the MUS and are allowed on the system's campuses. This policy conveys no right upon any party beyond seeking review by the BOR.

E. The commissioner will provide the BOR a report on the implementation of this policy upon request.

History:

Item 100-002-R0998, Competition with the Private Sector; Montana University System (NEW Board of Regents' Policy), approved November 19, 1998, as revised March 25, 2004 (ITEM 122-104-R0304, see Attachment 6).

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## Process for Review of University Activities

