

FAYETTEVILLE STATE UNIVERSITY

CONFLICTS OF INTEREST AND COMMITMENT

Authority:	Issued by the Chancellor. Changes or exceptions to administrative policies issued by the Chancellor may only be made by the Chancellor.
Category:	Personnel
Applies to:	<ul style="list-style-type: none"> ● Administrators ● Faculty ● Staff
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Related Policies/ Regulations/Statutes	<ul style="list-style-type: none"> ● Copyright Use and Ownership ● Financial Conflicts of Interest ● Patents and Inventions ● Conflicts of Interest and Commitment [UNC Policy #300.2.2] ● Regulations on External Professional Activities for Pay by Faculty and EHRA Non-Faculty Employees [UNC Policy #300.2.2.1[R]] ● Regulation on Implementing the UNC Conflict of Interest and Commitment Policy [UNC Policy #300.2.2.3[R]] ● University Research Relations with Private Enterprise [UNC Policy #500.1] ● University Equity Acquisitions Policy [UNC Policy #500.6] ● The University of North Carolina Policy on Research Conduct [UNC Policy #500.7]
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I. PURPOSE

Fayetteville State University (University) employees are required to manage their non-University activities and financial or personal interests in a manner that avoids circumstances that do or may prevent or limit their objectivity in the performance of their University employment responsibilities or that otherwise do or may adversely affect the University's interests. The purpose of this policy (Policy) is to identify the type of conflicts and relationships that require reporting to the University and to set forth the procedures for reporting such conflicts so that they can be recognized, disclosed, and managed.

II. DEFINITIONS

A. **Conflict of Commitment**

A *Conflict of Commitment* relates to a situation in which an employee engages in activities external to the University, or assumes commitments external to the University that compromise, may appear to compromise, or have the potential to compromise the Employee's ability to fulfill the Employee's Employment Responsibilities/Duties.

B. **Conflict of Interest**

A *Conflict of Interest* relates to a situation in which financial or other personal interest relationships may compromise, may involve the potential for compromising, or may have the appearance of compromising an Employee's objectivity in meeting the employee's University Employment Responsibilities/Duties.

C. **Employee**

Employee refers to any person – faculty, Senior Academic and Administrative Officer (SAAO), Exempt Professional Staff (EPS), or Employees subject to the Human Resources Act (SHRA) – who is employed by the University. This includes temporary employees and adjunct faculty. Additionally, part-time employees are covered by this Policy insofar as their Employment Responsibilities/Duties are concerned. Employees on leave are covered if the leave is funded at least partially from University sources.

D. **Employment Responsibilities/Duties**

Employment Responsibilities/Duties consist of assigned teaching, scholarship, research, institutional service requirements, administrative duties, and other assigned employment duties. Employment Responsibilities/Duties may include professional affiliations and activities traditionally undertaken by Employees outside of the immediate University employment context. Such endeavors, which may or may not entail the receipt of honoraria or the reimbursement of expenses, include membership in and service to professional associations and learned societies; membership on professional review or advisory panels; presentation of lectures, papers, concerts, or exhibits; participation in seminars and conferences; reviewing or editing scholarly publications and books; and service to accreditation bodies.

E. **External Professional Activity**

An *External Professional Activity* is defined as any activity that (1) is not included within an Employee's Employment Responsibilities/Duties; (2) is performed for any entity, public or private, other than the University; and (3) is based upon the professional knowledge, experience, and abilities of for which the University employs faculty, SAAO or EPS employee.

F. **Financial Interest**

Financial Interest is defined as follows:

1. Income received, such as dividends, royalties, payment for services, consulting fees, honoraria, and paid authorships, by the employee or immediate family from an entity other than the University;
2. Equity or other ownership interest in a publicly or non-publicly traded entity (e.g. stock, stock options, or other ownership interest) held by the employee or member of their immediate family; or
3. Intellectual property rights and interests upon receipt of income related to such rights and interests held by the Employee or member of their immediate family. This includes intellectual property rights assigned to the University and subject to a share in royalties related to such rights.

Income from investment vehicles, such as mutual funds or retirement accounts, in which the Employee or members of the Employee's Immediate Family do not directly control or advise on the investment decisions are excluded from the definition of Financial Interest.

G. Immediate Family

An Employee's *Immediate Family* includes an Employee's spouse, domestic partner, parent, child, sibling, grandparent, grandchild, in-laws, step-parent, step-child, guardian and ward, or member of one's household.

H. Unit

Unit means an academic department, school, college, or any other administrative unit designated by the Chancellor. *Unit Head* refers to the person with supervisory responsibility for the Employee, whether in an academic or non-academic department/unit.

I. Use of University Resources

Use of University Resources means using any University services, facilities, equipment, supplies or personnel which members of the general public may not freely use.

III. CONFLICTS OF COMMITMENTS

Conflicts of Commitment involve potential or actual time commitments that would interfere with an Employee's University Employment Responsibilities/Duties. Conflicts of Commitment may arise in connection with compensated or non-compensated activities. If an Employee's Employment Responsibilities/Duties are not met due to time spent on an outside activity, a Conflict of Commitment exists, notwithstanding that the Employee may or may not receive an economic benefit from the outside activity.

To determine whether an Employee is devoting sufficient time and energy to University Employment Responsibilities/Duties, the Unit Head should conduct regular reviews of the Employee's performance and scheduled reviews incident to promotion, reappointment, or tenure decisions. In addition, the Unit Head should consider complaints from students, colleagues, or administrators about possible failures to meet assigned responsibilities. The issue, in each case, is whether the Employee is meeting the requirements of the job. If presented with evidence that the Employee is not meeting full-time responsibilities to the University, disciplinary action, including the possibility of discharge, may be considered.

IV. CONFLICTS OF INTERESTS

Activities that may involve a Conflict of Interest may be categorized under the following four (4) general headings. Each includes illustrative examples of the four (4) categories but does not purport to include all possible situations within the four (4) categories:

A. Category 1 - Activities that are Allowable but Must be Disclosed

Relationships that are generally allowed because they do not compromise the objectivity of research results, the integrity of faculty-student interaction, decision-making, or other interests of the University, a sponsor, or the public. These relationships are generally minimal in their personal financial impact, and otherwise do not represent a potential source of unreasonable bias. If these relationships involve the receipt of compensation or reimbursement, they must be reported at least annually so long as they continue to exist, and may be subject to investigation and further oversight by appropriate University officials. Examples include the following:

1. An Employee receiving royalties from the publication of books or for the licensure of patented inventions subject to University and UNC Board of Governors' policies.
2. An Employee receiving compensation in the form of honoraria or expense reimbursement in connection with service to professional associations, service on review panels, presentation of scholarly works, and participation in accreditation reviews.

B. Category 2 - Activities Requiring Disclosure for Further Administrative Review and Analysis

Activities in this category suggest a possibility of conflicting interests that can impair objectivity, but disclosure and resulting analysis of relationships may render the activity permissible and may result in the establishment of an approved Conflict of Interest management plan. Examples include the following:

1. An Employee requiring students to purchase the textbook or related instructional materials authored by the Employee or members of their immediate family, which produces compensation for the employee or family member.
2. An Employee receiving compensation or gratuities from any individual or entity doing business with the University. Nothing in this subsection authorizes accepting compensation or gratuities where prohibited by federal or state law.
3. An Employee serving on the board of directors or scientific advisory board of an enterprise that provides financial support for University research where the Employee or a member of their immediate family may receive such financial support.
4. An Employee or a member of their immediate family having an equity or ownership interest in a publicly or non-publicly traded entity or enterprise.
5. External Professional Activities governed by and approved pursuant to University and UNC System policies.

C. Category 3 - Activities That Are Generally Not Allowable or Permitted Unless an Approved Conflict of Interest Management Plan is in Place

Activities under this category involve situations that are not generally permissible, because they involve potential financial conflicts of interest, or they present obvious opportunities or inducements to favor personal interests over University interests. Before proceeding with such an endeavor, the Employee would have to demonstrate that in fact their objectivity would not be affected, and University interests otherwise would not be damaged, and an approved Conflict of Interest management plan is in place. Examples include the following:

1. An Employee participating in University research involving a technology owned by or contractually obligated to (by license or an option to license, or otherwise) an enterprise or entity in which the individual or a member of their immediate family has a consulting relationship, has an equity or ownership interest, or holds an executive position.
2. An Employee participating in University research that is funded by a grant or contract from an enterprise or entity in which the individual or a member of their immediate family has an equity or ownership interest.
3. An Employee assigning students, post-doctoral fellows, or other trainees to University research projects sponsored by an enterprise or entity in which the individual or a member of their immediate family has an equity or ownership interest.

D. Category 4 - Activities That Are Not Allowable Under any Circumstances

Activities under this category are not permitted. Examples include the following:

1. An Employee making referrals of University business to an external enterprise in which the individual or a member of their immediate family has a Financial Interest.
2. An Employee associating their own name with the University in such a way as to profit financially by trading on the reputation or goodwill of the University.
3. An Employee making unauthorized use of privileged information acquired in connection with one's University Employment Responsibilities/Duties.
4. An Employee signing agreements that assign University patent and other intellectual property rights to third parties without prior University approval.
5. An Employee benefiting from a public contract in violation of State law, accepting gifts or favors from vendors or contractors in violation of State law, or engaging in activities prohibited under State law.
6. Any activity otherwise prohibited by law or University policy.

V. DISCLOSURE, REVIEW AND MANAGEMENT OF CONFLICTS

The process described below outlines how a conflict of interest or commitment is disclosed and reviewed to determine if a conflict exists and if a conflict does exist, how it will be managed or eliminated.

A. Submission of the Disclosure Form

Employees are required to complete and submit the *Conflict of Interest and Commitment Disclosure Form (COIC Form)* before October 1st of each year or by a date established by the Office of Human Resources. Employees will be reminded quarterly of their obligations under this Policy, and will be encouraged to seek assistance from their Unit Head or the Office of Human Resources, if questions or special circumstances arise.

Additionally, Employees are required to update the information elicited on the *COIC Form* at any time during the year when changes to their circumstances require updating. The supplemental information must be filed within thirty (30) calendar days of the new potential conflict.

The *COIC Form* is considered a confidential personnel record. The information disclosed in the forms will be made available only to individuals duly charged with the responsibility for review, and the information may be released only in accordance with and as required by North Carolina law or lawful court order.

B. Review and Approval of COIC Forms

1. Unit Head

The Unit Head has the initial responsibility to review the forms submitted by the Unit's Employee. The Unit Head may consult with their respective Dean (for Employees within the Dean's unit,) or the respective Vice Chancellor (for Employees within the Vice Chancellor's unit) regarding issues/concerns involving an employee's proposed activity prior to making a decision regarding the activity.

The Unit Head **must** seek the approval of their respective Dean (for Employees within the Dean's unit,) or the respective Vice Chancellor (for Employees within the Vice Chancellor's unit) of any monitoring system that is proposed for **Category 2** activities and any request for an exception and monitoring for **Category 3** activities. Monitoring of or exceptions to **Category 4** activities are not allowable under any circumstances.

2. Dean or Vice Chancellor

Category 2 or **Category 3** activities that require monitoring or exceptions shall be submitted to the respective Dean (for employees within the Dean's unit,) or the respective Vice Chancellor (for Employees within the Vice Chancellor's unit). Prior to issuing a determination, the Dean or Vice Chancellor may refer the conflict to the *Standing Committee on Conflict of Interest and Commitment* (described below) for its recommendation.

The Dean must report all actions pertaining to employees within the Dean's unit to the Provost and Vice Chancellor for Academic Affairs (Provost). No such reporting is required of Vice Chancellors.

3. Chancellor

The Chancellor shall serve as the Unit Head for Vice Chancellors and others reporting directly to the Chancellor. Prior to issuing a determination regarding an exception or monitoring system, the Chancellor may refer the conflict to the *Standing Committee on Conflict of Interest and Commitment* (described below) for its recommendation.

C. Employee Monitoring

Monitoring of Employees by Unit Heads will include regular reviews of performance in connection with annual salary decisions and scheduled reviews incident to promotion, reappointment or tenure decisions. Such monitoring will also include complaints from students, colleagues, or administrators about possible failures to meet assigned responsibilities that may arise and require investigation.

D. Committee Review

The Chancellor shall appoint a *Committee on Conflicts of Interest and Commitment* (Committee). The Committee shall be responsible for reviewing cases that are submitted to it by a Dean, Vice Chancellor or the Chancellor. The Committee shall conduct a thorough review of each case and submit recommendations for conflict resolution to the University official who referred the matter to the Committee.

In any case before the Committee, the Employee will be provided the opportunity to respond in person and in writing to the issues raised in the course of such review. Any such written response will be appended to the Committee's report for review by the referring University official.

E. Appeals

An Employee shall have the right to appeal in accordance with any prescribed rights of appeal outlined in respective University policies and procedures.

F. Violations

Employees who violate this Policy may be subject to disciplinary action, up to and including dismissal.

VI. IMPERMISSIBLE USE OF UNIVERSITY RESOURCES

Impermissible use of University resources includes the use of any services, facilities, equipment, supplies or personnel that members of the general public may not freely use. Such impermissible use may be considered a misuse of state property which requires reporting to the State Bureau of Investigation (SBI) as outlined in the University's *Misuse of State Property* policy. Examples of impermissible use or exploitation of University resources include, but are not limited to:

- Use of University Employees to advance the Employees' external activities.
- Use of University Space violation of the University policy on *Use of Space*.
- Use of Technology Resources in violation of the University's *Acceptable Use* policy.
- Use the name or marks of the University of North Carolina System or the University for any purpose other than for identification purposes while engaging in external activities.
- Claiming explicitly or implicitly, any University of North Carolina System or University responsibility for the conduct or outcome of an external activity.
- Receiving remuneration from both the University (including State-reimbursed travel, work time, or resources) and an external entity for the same activity.

VII. EXTERNAL PROFESSIONAL ACTIVITIES

Faculty, SAAO, and EPS employees who engage in external activities must adhere to this Policy and the University's *External Professional Activities* policy. Such employees must provide satisfactory assurances that external professional activities will not interfere with the employee's University employment obligations. The *External Professional Activities* policy may not apply to employees serving on academic year (9-month) contracts if the external professional activity is wholly performed and completed outside of the academic year, and the activity does not conflict with any policy of the University or UNC Board of Governors and is not conducted concurrently with a contract for teaching, research, or other services to be provided to the University during a summer session.

Faculty, SAAO or EPS employees who engage in external activities not involving such professional knowledge, experience, and abilities are not required to follow the advance disclosure and approval requirements of this Policy for such external activities. However, faculty, SAAO or EPS and their supervisors shall ensure that any such activities do not result in the neglect of their University Employment Responsibilities/Duties, create unmanageable conflicts of interest and/or commitments in accordance with this Policy, involve inappropriate uses of the University's name or resources, or include claims of University responsibility for the activity.

External Professional Activities shall be limited to no more than the equivalent of 20 percent (20%) of the employee's contracted time during the appointment period.

VIII. COMPLIANCE WITH FEDERAL REGULATIONS

The responsibility for compliance with any federal regulation pertaining to conflicts of interest shall reside with the Employee. Thus, an Employee submitting a grant or contract proposal for federal funding through the University or conducting research or other activities pursuant to a federal grant or contract, shall complete a *COIC Form* as required by this Policy and the University's *Financial Conflicts of Interest* policy. The Employee must report any activity or significant financial interest that would reasonably appear to affect the proposed or funded activity. Additionally, the *Principal Investigator* on a project shall be responsible for ensuring that any potential conflict of any member of the research team is reported as required by this Policy.

The University, through its Office of Sponsored Research and Programs, shall not submit a proposal to a funding agency if it does not have on file a *COIC Form and/or a Public Health Service Financial Conflict of Interest Form*. Neither will the University execute award documents or allow expenditures of research or other funds from sponsoring federal agencies if the Employee's *COIC Form* required by this Policy is not completed, or if the review and resolution of any conflict is not yet completed and approved. The disclosure statement must be updated

annually during an award period and any time a new financial interest or conflict arises, the financial interest or conflict must be reported within thirty (30) calendar days of the new interest or conflict.

IX. COMPLIANCE WITH NORTH CAROLINA STATUTES

Employees are required to adhere to State laws governing conflicts of interests. Those include, but are not limited to the following:

A. State Government Ethics Act

The purpose of the *State Government Ethics Act* is to ensure that elected and appointed State agency officials exercise their authority honestly and fairly, free from impropriety, threats, favoritism, and undue influence. The Act is intended to ensure that standards of ethical conduct and standards regarding conflicts of interest are clearly established for elected and appointed State agency officials, that the State continually educates these officials on matters of ethical conduct and conflicts of interest, that potential and actual conflicts of interests are identified and resolved, and that violations of standards of ethical conduct and conflicts of interest are investigated and properly addressed.

B. Public Officers or Employees Benefiting from Public Contracts

North Carolina law prohibits state employees from directly or indirectly entering into or otherwise participating in any business transaction involving public funds (regardless of source of funds) with any firm, corporation, partnership, person or association which at any time during the preceding two-year period had a financial association with that employee. All employees should be aware of this prohibition as they recommend business transactions for University approval. North Carolina law explicitly prohibits self-dealing (using one's University position to gain an unfair personal business advantage), misuse of confidential University information for personal gain, and having any personal interest in supplying any goods to the state.

X. OTHER MATTERS

A. Training

Employees will receive training on this Policy during new employee orientation. Employees will also receive periodic training as determined by the Office of Human Resources.

B. Relation to Other Laws

This Policy is designed to supplement and does not purport in any way to supplant or modify, those statutory enactments and rights which may govern or limit the political activities of employees of the State of North Carolina.