

## CONFLICT OF INTEREST OR COMMITMENT

<b>Authority:</b>	Chancellor
<b>History:</b>	Revised and Reformatted 10/20/06; Adopted 01/01/96; supersedes former Policy No. MSC 1.50
<b>Source of Authority:</b>	UNC Policy Manual, Section 300.2.2
<b>Related Links:</b>	Conflict of Interest Annual Reports; UNC Policy Manual 300.2.2.1[R]; UNC Policy Manual 300.2.2.2[R]
<b>Responsible Office:</b>	Academic Affairs

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### I. Policy and Scope

This policy sets forth procedures for implementation of the UNC Board of Governors policy and guidelines concerning conflicts of interest and commitment affecting university employment. Procedures for implementation of the policy and compliance with required reporting mechanisms are contained within this document. In addition, the realms of conflict of commitment and conflict of interest are explained together with how each is to be monitored. All EPA faculty and professional employees are covered by this policy.

### II. Introduction

Interactions between universities and external organizations have increased significantly in recent years and now frequently involve relationships among one or more universities and many external partners. These often complex relationships require that guidelines, such as this Policy on Conflict of Interest, be used to assure the importance of academic integrity in research.

In order to fulfill its teaching/research/outreach mission, UNCW encourages its faculty and other EPA employees to participate in meaningful and appropriate relationships with business and governmental partners. These partnerships are therefore established for mutually beneficial reasons and many times produce knowledge that will help to meet the needs of the community UNCW reflects and serves.

In order to preserve the employee's freedom to participate in these activities while avoiding real as well as perceived conflicts of interest, this uniform policy, consistent with current HHS and NSF guidelines, was developed for UNCW. All faculty and EPA non-faculty employees are required by this Policy to avoid conflicts of interest and conflicts of commitment in their relationships with external organizations. This

Policy covers full-time and part-time faculty and EPA non-faculty employees insofar as their university responsibilities are concerned. It also covers faculty and EPA non-faculty employees who are on leave if the leave is funded at least partially from university sources.

The Policy provides an annual disclosure and approval process for certain external relationships, but, recognizing the difficulty of anticipating all situations that may arise, leaves it to the discretion of the supervisor of the faculty member or EPA non-faculty employee to interpret and implement the Policy and to evaluate the proposed activity. The supervisor has the initial responsibility to review proposed activities for possible conflict of interest or commitment, according to the guidelines of this Policy.

The rigorous application of this Policy will be particularly important in the case of persons exercising significant university authority. Individuals in administrative positions have substantial influence over others by virtue of their role in professional appointments, promotions, tenure decisions, allocations of space, determinations of salary, and the like.

While this Policy is applicable to all faculty and EPA non-faculty, those with administrative responsibilities must take particular care to avoid relationships that have the potential to advantage the individual but affect adversely the university's interests. Among the relationships that may adversely affect the university's interests are relationships that would lead inappropriately to the individual's personal financial gain, relationships that might adversely affect the professional academic advancement of colleagues, or relationships that might otherwise inject inappropriate considerations into administrative decisions.

Of particular concern is the impact on students and other trainees of activities that could potentially create conflicts of interest or commitment. Because of this concern, it is essential that all faculty and EPA non-faculty employees demonstrate at all times their commitment to the highest intellectual and ethical standards in all aspects of research, teaching, and outreach, particularly where opportunities for conflict may exist. As a corollary, the training experiences of students are expected to incorporate the value of objectivity and the importance of public trust.

Because of the necessity to avoid conflicts of interest and commitment and the appearance thereof, the Policy requires each faculty member and EPA non-faculty employee to disclose annually certain financial and other information. Individual circumstances may require additional or more frequent disclosure, particularly if there is any significant change in personal financial or fiduciary status. The information provided must be accurate and may have a direct bearing on the individual's employment status with the university. Possible sanctions for violation of this Policy, including refusal to file the disclosure form or furnishing false, misleading, or incomplete information on the disclosure form, can range from administrative intervention to termination of employment, all in accordance with applicable university policies. Examples of how conflicts of interest might be managed by the

university are listed below. If a violation of this policy involves an externally-funded program, the provost will notify the funding agency of the corrective measures taken or planned. Further, when external funding is being sought a certification statement must be included in the application.

### **III. Definitions**

#### **A. Conflict of commitment**

It relates to an individual's distribution of effort between obligations to one's university employment and one's participation in other activities outside of university employment. The latter may include such generally encouraged extensions of professional expertise as professional consulting. Such activities promote professional development and enrich the individual's contributions to the institution, to the profession, and to society. However, a conflict of commitment occurs when the pursuit of such outside activities involves an inordinate investment of time that interferes with the employee's obligations to students, to colleagues, and to the missions of the university.

#### **B. Conflict of interest**

It relates to situations in which financial or other personal considerations may compromise, may involve the potential for compromising, or may have the appearance of compromising an employee's objectivity in meeting university duties or responsibilities, including research activities. The bias that such conflicts may impart can affect many university duties, including decisions about personnel, the purchase of equipment and other supplies, the collection, analysis and interpretation of data, the sharing of research results, the choice of research protocols, the use of statistical methods, and the mentoring and judgment of student work. An EPA employee may have a conflict of interest when he or she, or any member of that person's immediate family, has a personal interest in an activity that may affect decision making with respect to university teaching, research, or administration.

#### **C. External professional activities for pay**

It means any activity that 1) is not included within one's university employment responsibilities; 2) is performed for any entity, public or private, other than the university employer; 3) is undertaken for compensation; and 4) is based upon the professional knowledge, experience and abilities of the EPA employee. Activities for pay not involving such professional knowledge, experience and abilities are not subject to the advance disclosure and approval requirements of Section III of this policy, although they are subject to the basic requirement that outside activities of any type not result in neglect of primary university duties, conflicts of interest, inappropriate uses of the university name or resources, or claims of university responsibility for the activity.

#### D. University employment responsibilities

They include both "primary duties" and "secondary duties." Primary duties consist of assigned teaching, scholarship, research, institutional service requirements, and other assigned EPA employment duties. Secondary duties consist of professional affiliations and activities traditionally undertaken by EPA employees outside of the immediate university employment context that redound to the benefit of the profession and to higher education in general. Such endeavors, which may or may not entail the receipt of honoraria (see additional regulations, UNC Policy Manual, 300.2.2.2 [R]) 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. Such integral manifestations of one's membership in a profession are encouraged, as extensions of university employment, so long as they do not conflict or interfere with the timely and effective performance of the individual's primary University duties.

#### E. EPA employees

It refers to any person – faculty or non-faculty – who is employed by the University of North Carolina or a constituent institution or other agency or unit of the University of North Carolina and who is not subject to the State Personnel Act (see UNC Policy Manual, 300.2.2.1[R], Section I, Item B for exceptions that may apply to academic year appointments).

#### F. Department

It means an academic department, a professional school without formally established departments, or any other administrative unit designated by the chancellor of an institution or by the Office of the President, for the purposes of implementing this policy. "Department Head" refers to the person with supervisory responsibility for the employee, whether in an academic or nonacademic department.

#### G. Inappropriate use or exploitation of University resources

It means using any services, facilities, equipment, supplies or personnel which members of the general public may not freely use. A person engaged in external professional activities for pay may use, in that connection, his or her office and publicly accessible facilities such as university libraries; however, an office shall not be used as the site for compensated appointments with clients, e.g., for counseling or instruction. Under no circumstances may a supervisory employee

use the services of a supervised employee during university employment time to advance the supervisor's external professional activities for pay.

#### **IV. Conflicts of Commitment**

Questions about conflict of commitment are more easily resolved than questions about conflicting interests. Although full-time faculty and other EPA employment is not amenable to precise, time-clock analysis and monitoring, administrators at the department and school levels are able to and regularly do evaluate the work of employees within their jurisdiction. The formal occasions for determining whether an individual is devoting sufficient time and energy to university employment include regular reviews of performance in connection with annual salary decisions and scheduled reviews incident to promotion, reappointment or tenure decisions. In addition, complaints from students, colleagues, or administrators about possible failures to meet assigned responsibilities may arise and require investigation. The issue, in each case, is whether the employee is meeting the requirements of the job. If presented with evidence that he or she is not meeting full-time responsibilities to the university, The Code prescribes that "neglect of duty" is a ground for disciplinary action, including the possibility of discharge. The following describe instances of activities that require specific monitoring to demonstrate the absence of conflict.

##### **A. External Professional Activities for Pay**

The University of North Carolina and its constituent institutions seek to appoint and to retain, as faculty and non-faculty EPA employees, individuals of exceptional competence in their respective fields of professional endeavor. Because of their specialized knowledge and experience, such persons have opportunities to apply their professional expertise to activities outside of their university employment, including secondary employment consisting of paid consultation with or other service to various public and private entities. Through such practical, compensated applications of their professional qualifications, university employees enhance their own capabilities in teaching, research, and administration. Thus, participation of EPA employees in external professional activities for pay, typically in the form of consulting, is an important characteristic of academic employment that often leads to significant societal benefits, including economic development through technology transfer.

However, such external professional activities for pay are to be undertaken only if they do not:

1. Create a conflict of commitment by interfering with the obligation of the individual to carry out all primary university duties in a timely and effective manner; or
2. Create a conflict of interest vis-a-vis the individual's status as an employee of the University; or

3. Involve any inappropriate use or exploitation of university resources; or
4. Make any use of the name of the University of North Carolina or any of its constituent institutions for any purpose other than professional identification; or
5. Claim, explicitly or implicitly, any university or institutional responsibility for the conduct or outcome of such activities.

The UNC Policy Manual, 300.2.2.1 [R], contains regulations and procedures established to monitor possible conflicts of commitment. An EPA employee who wishes to engage in external professional activity for pay must adhere to these regulations to provide satisfactory assurances that such activity will not interfere with university employment obligations. These regulations may not apply to EPA employees serving on 9, 10, or 11 month contracts, if the external professional activity for pay is wholly performed and completed outside of the academic year and the activity does not conflict with the policy statements of the institution or Board of Governors and is not conducted concurrently with a contract service period for teaching, research, or other services to the institution during a summer session.

In those instances when State-reimbursed travel, work time, or resources are used or when the activity can be construed as related to the employee's State position or official duties on behalf of the State, the employee shall not receive an honorarium. In these instances the employee may request that the honorarium be paid to the university. The honorarium may be retained by the employee only for activities performed during non-working hours or while the employee is on annual leave, if all expenses are the responsibility of the employee or a third party that is not a State entity and the activity has no relation to the employee's State duties. In addition, senior academic and administrative officers may also be subject to special regulations regarding honoraria which require leave to be taken when external activities for pay will take place during the regular work week. Please refer to the UNC Policy Manual, 300.2.2.2 [R].

Instead of using annual leave as set out above, pursuant to principles of public accountability, employees who are exempt from the Fair Labor Standards Act and who are out of work due to an external professional activity for pay, or who wish to retain an honorarium, may choose to use periodic uncompensated leave rather than annual leave. The periodic uncompensated leave is to be taken in full days.

External professional activities for pay performed for another institution or agency of the State of North Carolina also must comply with State policies governing dual employment and compensation, unless an exception to those State policies is expressly authorized by the chancellor or the President.

- B. The Board has also established rules for monitoring and regulating the involvement of university employees in political candidacy and office-holding that could interfere with full-time commitment to university duties. Please refer to UNC Policy Manual, 300.5.1 et seq. for specific policy details.

## **V. Conflicts of Interest**

Conflicts of interest are more difficult to define, detect, and resolve than conflicts of commitment. An EPA employee's professional activities and financial interests must be arranged to avoid circumstances that do or may prevent or limit objectivity in the performance of university responsibilities or that otherwise do or may affect adversely any university interests.

Activities that may involve conflicts of interest can be categorized under three general headings: first, those that otherwise might appear to involve such a conflict but that in fact do not, are allowable, and need not be reported; second, those that are questionable and must be reported, but that may be allowable with administrative approval; and third, those that generally are not allowable. The following examples are merely illustrative and do not purport to include all possible situations within the three categories:

### **A. Activities allowable with no reporting required**

While the cited examples involve activities external to university employment, and thus may present the appearance of a technical conflict, they do not have the potential for affecting the objectivity of the employee's performance of university responsibilities and are therefore not conflicts of interest; however, such situations could prompt questions about conflict of commitment.

1. An employee receiving royalties from the publication of books or for the licensure of patented inventions subject to the UNC Patent and Copyright Policies.
2. An employee having an equity interest in a corporation the exclusive function of which is to accommodate the employee's external consulting activities.
3. An employee receiving nominal compensation, in the form of honoraria or expense reimbursement, in connection with service to professional associations, service on review panels, presentation of scholarly works, manuscript, textbook, thesis or dissertation review, and participation in accreditation reviews.

### **B. Activities requiring disclosure for administrative review**

The cited examples suggest a possibility of conflicting loyalties that can impair objectivity, but disclosure and resulting analysis of relationships may render the activity permissible, perhaps with certain limitations or monitoring.

1. An employee requiring students to purchase the textbook or related instructional materials of the employee or a member of his or her family, which produces compensation for the employee or family member.
2. An employee receiving compensation or gratuities (other than occasional meals, gifts of desk copies of textbooks, and the like) from any individual or entity doing business with the university.
3. An employee serving on the board of directors or advisory board of an enterprise that provides financial support for university research, if the employee or a member of his or her family may receive such financial support.
4. An employee serving in an executive position in a for-profit or not-for-profit business which conducts research or other activities in an area related to the university duties of the employee.
5. An employee having significant equity in a for-profit business which conducts research or other activities in an area related to the employee's university duties.
6. An employee having a financial interest in a business that competes with services provided by the university.

C. Activities or relationships that presumptively are not allowable

The cited examples involve situations that are not generally permissible, because they involve potential conflicts of interest or they present opportunities or inducements to favor personal interests over institutional interests. Before proceeding with such an endeavor, the employee would have to report such an activity using the procedures cited below and sustain the burden of demonstrating that in fact his or her objectivity would not be affected or university interests otherwise would not be damaged.

1. An employee participating in university research involving a technology owned by or contractually obligated to (by license or exercise of an option to license, or otherwise) a business in which the individual or a consulting relationship has an ownership interest or holds an executive position.
2. An employee participating in university research which is funded by a grant or contract from a business in which the individual or a member of his or her family has an ownership interest.

3. An employee assigning students, post-doctoral fellows or other trainees to university research projects sponsored by a business in which the individual or a member of his or her family has an ownership interest.
4. An employee accepting support for university research under conditions that require research results to be held confidential, unpublished, or inordinately delayed in publication (other than as allowed by University Patent and Copyright Policies or by policy of the Board of Governors dated February 12, 1988, Administrative Memorandum No. 260).
5. An employee making referrals of university business to an external enterprise in which the individual or a member of his or her family has a financial interest.
6. An employee associating his or her own name with the university in such a way as to profit financially by trading on the reputation or goodwill of the university.
7. An employee making unauthorized use of privileged information acquired in connection with his or her university responsibilities.

## **VI. Description of the Process and Appeals Procedures**

Primary review and monitoring of activities related to conflict of interest and commitment will remain a function of the supervisor. Final approval resides with the next appropriate level supervisor. Annually, prior to the beginning of the academic year, all EPA personnel will complete the annual report of potential conflict of interest activities or relationships. Questions on the annual report form are designed to identify activities that require additional oversight and review to insure that all activities are properly disclosed. Activities identified on the form should not necessarily be interpreted as prohibited; they may be permissible following their report, review, and approval. The employee and supervisor are to complete and sign the form. The form will be maintained in the employee's personnel file and no further action will be required if all questions are answered 'no'. Further reporting and review will be required for activities identified in the annual report. The employee should complete the additional disclosure forms A, B, or C as directed on the annual report explaining these activities. These additional forms will be reviewed by the supervisor with the employee and signed by both parties. Completed disclosure forms will be forwarded to the next appropriate level supervisor for final approval. All forms will be maintained in the employee's personnel file. All employees required to file the Annual Report are also under a continuing obligation to update information in previous filings and make new filings at any time during the year should circumstances change.

If, after review by the appropriate person(s), disagreement exists between the employee and administration regarding the permissibility of activities, the employee may appeal the decision to the Conflict of Interest Review Committee. The appellant bears the burden of demonstrating that the proposed activity is not a conflict of interest as defined in this policy. Decisions by this committee will be final.

This document contains the policy statement of the UNC Board of Governors regarding conflicts of interest and commitment (300.2.2 as amended 06-09-06], the annual report, and additional necessary report forms as identified on the annual report (Forms A, B, and C).

## **VII. Conflict of Interest Review Committee**

This is a standing committee of the Chancellor made up of:

- A. the Dean of the Graduate School and Research, who serves as permanent chair and is charged with receiving appeals, calling meetings of the committee, and reporting to appropriate persons/agencies (chancellor, provost, appropriate vice chancellors, deans and department chairs, and where applicable UNC General Administration, NSF, HHS, or other federal funding agencies requiring such reports);
- B. the chairperson or a representative from the UNCW Faculty Professional Relations Committee;
- C. a faculty member with expertise in Business Law;
- D. a representative from the Office of Human Resources; and
- E. a tenured faculty member with academic credentials in the discipline of the person filing the appeal.

If the appeal involves a non-faculty EPA employee, the fifth member shall be a non-faculty EPA employee. If the appeal involves a member of the committee, directly or through a potential conflict of interest, the chancellor shall appoint a suitable substitute to replace that individual.

## **VIII. Other Definitions**

The following definitions are used in the Annual Report Form and related forms:

- A. "Family" means your spouse, parents, children, or siblings.
- B. "Participant" means any person who receives direct compensation or any other financial support for themselves or their teaching, research, outreach, or extension activities.

- C. "Significant financial interest" means anything of monetary value, including but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights). The term does not include:
1. Salary, royalties, or other remuneration from the institution;
  2. Any ownership interests in the institution, if the institution is an applicant under the Small Business Innovation Research Program;
  3. Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
  4. Income from service on advisory committees or review panels for public or nonprofit entities;
  5. An equity interest that when aggregated for the employee and the employee's spouse and dependent children meets both of the following tests:
    - a. does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value; and
    - b. does not represent more than a five percent ownership in any single entity; or
  6. Salary, royalties or other payments that when aggregated for the employee and the employee's spouse and dependent children over the next twelve months are not expected to exceed \$10,000.
- D. "Employee" means all full-time and part-time faculty and all EPA non-faculty.

## **IX. Annual Report Forms**

The annual report questionnaire is divided into three main sections:

- A. Questions 1-5 are directly related to faculty activities with enterprises external to the university,
- B. Questions 6-7 are related to activities of students and other personnel employed or supervised by faculty, and
- C. Questions 8-9 are concerned with the use of faculty-owned "property" by the university.

## **X. Certification statement**

The following statement should appear in the cover letter submitted with all applications for external funding:

There is in effect at UNCW a written and enforced administrative process to identify and manage, reduce or eliminate conflicting interests with respect to all research projects for which funding is sought. Prior to the expenditure of any funds received under this award UNCW will notify the granting agency of the existence of any conflicting interest found by the university and assure that the interest has been managed, reduced or eliminated. For any interest identified as conflicting subsequent to the university's initial report under the award, the report will be made and the conflicting interest managed, reduced or eliminated, at least on an interim basis, within sixty days of that identification. UNCW agrees to make information available, upon request of the granting agency, regarding all conflicting interests identified by the university and how those interests have been managed, reduced or eliminated to protect the results of the work from bias.

## **XI. Management of Conflicting Interests**

The designated official(s) must review all financial disclosures and determine whether a conflict of interest exists and, if so, determine what actions should be taken by the university to manage, reduce or eliminate such conflict of interest. A conflict of interest exists when the designated official(s) reasonably determines that a Significant Financial Interest could directly and significantly affect the design, conduct, or reporting of the results of the work. Examples of conditions or restrictions that might be imposed to manage conflicts of interest include, but are not limited to:

- A. Public disclosure of significant financial interests;
- B. Monitoring of research by independent reviewers;
- C. Modification of the research plan;
- D. Disqualification from participation in all or a portion of the research;
- E. Divestiture of significant financial interests; or
- F. Severance of relationships that create actual or potential conflicts