



## POLICY STATEMENT #11

### CONFLICTS OF INTEREST AND COMMITMENT

#### Introduction

The number and complexity of relationships between universities on the one hand and public and private sources of research support on the other have grown substantially in recent years. The purpose of this Policy on Conflicts of Interest and Commitment is to provide guidelines for those relationships that will help to assure the primacy of academic integrity.

Faculty and EPA staff employees are encouraged to engage in appropriate outside relationships with commercial companies, the nonprofit sector, and the federal and state governments if the activities are consonant with the objectives of the University. Such partnership in support of the University's three-fold mission of teaching, research, and service is encouraged when it produces mutual benefits to participants as well as benefits to society. Facilitating the transfer of technology to improve the health and productivity of society is an important goal of cooperative university-industry and faculty-industry relationships.

An essential part of the University's commitment to encourage the dissemination of its scholarly research activity and worthwhile technology transfer is protection of the University's integrity and its fundamental goals of education and open inquiry. To this end, faculty and EPA staff employees are required by this Policy on Conflicts of Interest and Commitment (hereinafter, the Policy) to avoid conflicts of interest and conflicts of commitment in their relationships with outside organizations. This Policy covers full-time faculty and EPA staff employees, part-time faculty and EPA staff employees insofar as their University responsibilities are concerned, and faculty and EPA staff employees who are on leave if the leave is funded at least partially from University sources. Definitions of key terms used in the Policy are provided at the end of this document.

The Policy provides an annual conflict evaluation and approval process for certain outside relationships that supplements other University policies. The Policy recognizes the desirability of flexibility and the difficulty of anticipating all situations that may arise. Therefore, it is left to the discretion of the supervisor of the faculty member or EPA staff employee (usually the Department Chair) to interpret and implement the Policy and to evaluate the activity proposed in the context of the academic unit in question. The supervisor has the initial responsibility to decide questions of conflict of interest or commitment, according to the guidelines of this Policy. Prior to submission of a proposed activity or financial or business relationship for review and approval by the supervisor, informal discussion between the individual and the supervisor is strongly encouraged to promote mutual understanding and to prevent avoidable conflicts from developing.

Those with administrative responsibilities must also 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 or personnel 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 staff

employees demonstrate at all times their commitment to the highest intellectual and ethical standards in all aspects of research, teaching, and service, 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, this Policy requires each faculty member and EPA staff employee annually to submit for evaluation certain financial and other information on the form provided as Attachment 1 to this Policy. 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 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.

### **Federal Regulations**

Although this Policy applies to conflicts which may arise with respect to any research or non-research activity conducted under University auspices, federal regulations issued by the National Science Foundation and Public Health Service set specific requirements for University research funded by those agencies. This Policy is intended to comply with those federal regulations.

As a part of its obligations for such federally funded research the University is required to certify in the application for funding from those agencies that UNC Charlotte

- a. has in place a written *and enforced* administrative process to identify and manage, reduce or eliminate conflicting interests;
- b. will, before expending any funds under the award, report to the federal agency the existence of an identified conflicting interest (but not the nature of the interest or other details) and assure that the conflicting interest has been managed, reduced or eliminated in accord with the regulation (and will do the same for any conflicting interest first identified after the initial report);
- c. will make available to the federal agency on request information regarding all conflicting interests identified by UNC Charlotte and how those interests have been managed, reduced or eliminated to protect research from bias; and
- d. will otherwise comply with all aspects of the regulations.

### **North Carolina Statutes**

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 such employee. All employees should remain 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.

### **Relation to Other University Policies**

In addition to the North Carolina laws on conflicts of interest and commitment referenced above, this Policy supplements other University policies, including but not limited to "[External Professional Activities of Faculty and Other Professional Staff](#)," the "[Patent Policy](#)," the "[Copyright Policy](#)," the "[Tenure Policies, Regulations, and Procedures](#)," and the "[Personnel Policies for Designated Employment Exempt from the State Personnel Act](#)." Information on these laws and policies is available from the Office of Legal Affairs.

## Conflicts of Commitment

The term "Conflict of Commitment" relates to an individual's distribution of effort between one's University appointment and one's outside activities. The latter may include professionally related activities such as involvement with professional societies, participation on review panels, and external professional activities for pay. These activities often promote professional development and enrich the individual's contributions to the institution, to the profession or discipline, and to the community.

*It is the policy of the University that faculty and EPA staff employees are expected to devote their primary professional loyalty, time, and energy to their teaching, research, service, and, where applicable, patient care or administrative responsibilities at the University. Accordingly, outside activities and financial interests must be arranged so as not to interfere with the primacy of these commitments.*

## Conflicts of Interest

The term "Conflict of Interest" refers to situations in which financial or other personal considerations may directly and significantly affect, or have the appearance of directly and significantly affecting, a faculty member's or EPA staff employee's professional judgment in exercising any University duty or responsibility, including the conduct or reporting of research. The bias that such conflicts may conceivably impart can adversely affect many University activities, including decisions about University employees or the supervision or evaluation of students; equipment and supplies; collection, analysis and interpretation of data; sharing of results; choice of protocol; and the use of statistical methods.

A faculty member or EPA staff employee may be considered to have a conflict of interest when he or she, any of that person's family (as hereinafter defined), or any associated entity (as hereinafter defined) of a faculty or EPA staff employee possesses a financial interest in an activity that involves his or her responsibilities as a University employee. In addition, a faculty member or EPA staff employee may not, without University approval, conduct research in the field of his or her University responsibilities, externally and in competition with the University and its legitimate interests, when that research is within the course and scope of his or her University employment.

*It is the policy of the University that faculty and EPA staff employees are expected to avoid conflicts of interest that have the potential directly and significantly (1) to affect the interests of the University; (2) to compromise objectivity in carrying out University responsibilities; or (3) otherwise to compromise the performance of University responsibilities. Accordingly, outside activities and financial interests must be arranged so as to avoid such conflicts.*

## Categories and Examples of Potential Conflicts

Activities that may involve conflicts of interest or commitment fall into three general categories that differentiate relationships according to potential for adverse impact.

Category I consists of relationships that, while including some that are conflicts in a technical sense, are allowable because they do not compromise the objectivity of research results, the integrity of faculty-student interaction, or other interests of the University, the 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.

Category II consists of relationships that may be permissible following disclosure and, where necessary, consultation. Such relationships may necessitate supervisory procedures designed to preclude bias or inappropriate activities and to ensure academic standards, intellectual values, and institutional integrity.

Category III consists of relationships presenting such serious problems that they will hereafter be presumed to be inappropriate for a faculty member or EPA staff employee. In such cases, a

heavy burden will rest with the individual to demonstrate to the University's satisfaction the compatibility of such practices with University policy prior to going forward with the proposed activity.

Provided below are representative but not all-inclusive examples of activities in each of these three categories.

### **Category I: Activities That Are Routinely Allowable and Are Not Required To Be Disclosed Pursuant to this Policy**

(a) Receiving royalties for published scholarly works and other writings or for inventions, pursuant to the "Institutional Patent and Copyright Procedures." (See UNC Charlotte Policy Statement #7.)

(b) Activities undertaken as a member of 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 are permitted under the policy "External Professional Activities of Faculty and Other Professional Staff," Policy Statement #1, so long as they do not conflict or interfere with the timely performance of primary University duties. These activities are permitted even if they are performed for nominal honoraria or reimbursement of expenses, provided that the receipt of nominal honoraria or reimbursement of expense is not in conflict with any other applicable University, state, or federal policy, rule or regulation.

(c) Ownership of or equity in a corporation used solely for the individual's consulting activities.

### **Category II. Activities That May Be Allowable Following Disclosure and, Where Necessary, the Implementation of Monitoring Procedures**

#### **Research Activities**

(a) Receiving research support through contracts or grants (whether in dollars or in kind) for research under University auspices from a business in which the individual, or a member of his or her family, has a consulting relationship that meets the definition of "significant financial interest."

(b) Participating in research under University auspices involving a technology owned by or contractually obligated (by license or exercise of an option to license or otherwise) to a business in which the individual, or a member of his or her family, has a consulting relationship that meets the definition of "significant financial interest."

(c) Participating in research under University auspices involving a technology developed by that individual or a member of his or her family.

#### **External Activities**

(d) Serving on the board of directors or scientific advisory board of an enterprise from which that individual, or a member of his or her family, may receive support for research under University auspices.

(e) Assuming an executive position in a *not-for-profit* business engaged in commercial or research activities in a field related to the individual's University responsibilities.

#### **Ownership**

(f) Possessing a significant financial interest, including a significant consulting relationship, in a business that competes with the services provided by the University as a part of its academic,

research, or training mission.

(g) Possessing a significant financial interest, including a significant consulting relationship, in a business in a field related to the individual's University responsibilities.

(h) Requiring or recommending one's own textbook or other teaching aids, materials or equipment, or those of a member of his or her family, to be used in connection with University programs. Such requirement or recommendation must be preceded by disclosure and review according to Policy Statement #76, "Textbook and Educational Material Adoption."

#### **Other**

(i) Acceptance by the University employee or a member of his or her family of other than nominal gratuities or special favors from one whom the individual knows is doing business with or proposing to do business with the University. Nominal may include meals, gifts of texts, and the like.

(j) Engaging in any other activity that has the potential for creating a conflict of interest or commitment as defined herein.

### **Category III: Activities That Are Presumptively Not Allowable**

#### **Research Activities**

(a) Participating in research under University auspices involving a technology owned by or contractually obligated (by license or exercise of an option to license or otherwise) to a business in which the individual, or a member of his or her family, holds a significant financial interest, excluding a consulting relationship.

(b) Receiving, through contract or grant, support for research under University auspices (whether in dollars or in kind) from a business in which the individual, or a member of his or her family, has a significant financial interest, excluding a consulting relationship.

(c) Accepting support for research under University auspices under terms and conditions that results be held confidential, unpublished, or significantly delayed in publication, other than the delay permitted by the "Institutional Patent and Copyright Procedures," UNC Charlotte Policy Statement #7.

(d) Assigning students, postdoctoral fellows or other trainees to University projects sponsored by a for-profit or not-for-profit business in which the individual, or a member of his or her family, has a significant financial interest, including a significant consulting relationship.

#### **External Activities**

(e) Assuming an executive position in a *for-profit* business engaged in commercial or research activities in an area related to the individual's University responsibilities.

(f) Making referrals of University business to an external business or professional office in which such individual or a member of his or her family has a significant financial interest, including a significant consulting relationship. "External business" excludes the University or any private professional practice or other entity controlled by or under common control with the University or with which the University has a contractual relationship for the purpose of providing professional services or education.

(g) Associating one's name or one's work with an external activity in such a way as to profit monetarily by trading on the reputation or good will of the University. An example of a context in

which such an association might occur is external professional activity for pay. Mere identification of the University as the employer of the individual and of the individual's position at the University is permitted by this section, provided that such identification is not used in a manner that implies sponsorship or endorsement by the University.

### **Public Disclosure**

(h) Publishing or formally presenting results of research conducted under University auspices, or providing expert commentary on a subject, without simultaneously disclosing any financial interest relating to such results or such subject.

(i) Unauthorized use of privileged information acquired in connection with one's University responsibilities. This section is not intended to apply to standard publication activity.

### **Administrative Responsibilities**

(j) Taking administrative action in the course and scope of University responsibilities that is beneficial to a business in which the individual, or a family member, has a significant financial interest, including a significant consulting relationship.

(k) Influencing the negotiation of contracts between the University and an outside organization with which the individual, or a family member, has a significant financial interest, including a significant consulting relationship.

### **Committee Participation**

(1) Serving on a committee of a governmental agency or private entity and simultaneously participating in the consideration by such a committee of the regulation or application of a technology that is owned by or contractually obligated (by license or exercise of an option to license) to a business in which that individual, a member of his or her family, has a significant financial interest, including a significant consulting relationship.

### **Management of Conflicts of Interest**

Once a conflict of interest is identified through the submission of a Conflict Evaluation Form or otherwise, the administrator charged under this Policy with the initial responsibility to respond should collect all relevant information necessary to make an informed judgment on the matter. Developing an appropriate response requires examining a range of alternatives and fashioning a response appropriate to the specific situation. These include, but are not limited to:

- Concluding that while a conflict appears to exist, the nature and degree of conflict found to be present are not significant and do not warrant action beyond the initial disclosure.
- Requiring public disclosure of significant financial interests.
- Requiring that the research or other activity be monitored by neutral, independent reviewers.
- Requiring modification of the research plan or work plan.
- Requiring that an individual with a conflicting interest be disqualified from participation in a particular project or activity or specified parts of the project or activity.
- Requiring divestiture or severance of significant financial or other interests which create conflict with the individual's University work.

### **Submission of Conflict Evaluation Forms**

1. All faculty members and EPA staff employees, including part-time employees and employees on leave (explained herein) are required to complete and submit the Annual Evaluation Form for Possible Conflict of Interest or Commitment ("Conflict Evaluation Form," [Attachment 1](#)) before

October 1 each year on a schedule announced by the Provost. All such forms must be submitted to the Department Chair or, for staff employees, to the appropriate department head. *Updated forms must also be submitted throughout the year if changes arise* (for example, new University duties or changes in external professional activities) that the individual believes may either: (a) give rise to a potential conflict of interest, as specified in Category II or Category III, herein; (b) eliminate a potential conflict previously disclosed; or (c) result in an affirmative answer to any question previously answered in the negative on the Conflict Evaluation Form. Part-time employees are covered by this Policy insofar as their University responsibilities are concerned. Employees on leave are covered if the leave is funded at least partially from University sources.

2. Faculty members and EPA staff employees will be reminded annually to complete and to return Conflict Evaluation Forms, and will be encouraged to seek assistance from their Department Chair, Dean or Director, or the General Counsel, if questions or special circumstances arise.

3. The Conflict Evaluation Forms contain information that may have a direct bearing on the individual's employment. The forms, therefore, will be included in the individual's personnel file. As a part of the personnel file, the forms will be considered confidential. The information disclosed in the forms is 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.

### **Review and Approval of Conflict Evaluation Forms**

The Department Chair or other department head has the initial responsibility to review the forms filed with him or her by the faculty or EPA staff employees within that unit. Review shall follow the provisions of this Policy. The Department Chair or department head *may* refer any question regarding a conflict evaluation to the Dean, or appropriate unit head, respectively, for review and decision and *must* refer to the Dean or equivalent for review and approval any monitoring mechanism that is proposed for Category II activities and any request for exception and monitoring mechanism for Category III activities.

The Dean may at his or her discretion refer the conflict evaluation of any Category II or Category III activity to the Standing Committee on Conflict of Interest and Commitment for its recommendation prior to making a decision on the activity.

The Dean must report all of his or her actions under the Policy by sending a copy of the decision or approval letter to the Provost.

In the case of individuals who hold administrative positions, the annual and interim conflict evaluation and review process will proceed as follows: Department Chairs will report directly to their Dean; Deans and Directors will report to the appropriate Vice Chancellor; and Vice Chancellors will report to the Chancellor.

### **Standing Committee on Conflicts of Interest and Commitment**

The Chancellor will appoint a Standing Committee on Conflicts of Interest and Commitment. The Committee will be responsible for reviewing cases that are brought to its attention by any Dean or Vice Chancellor or by the Chancellor. It will conduct a thorough review of each case and will make recommendations for conflict resolution to the official who referred the matter to it.

In any case before the Committee, the member of the faculty or EPA staff 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 official.

### **Policy Implementation and Policy Breaches; Reporting Obligations**

The Chancellor has responsibility for overseeing the implementation of this Policy in all units, including the

process and mechanism for conflict evaluation. All University faculty and staff members are responsible for reporting to the Provost any known or suspected breach of this policy, including: (a) failure to comply with the conflict evaluation process (by refusal to respond, by responding knowingly with incomplete or inaccurate information, or otherwise); (b) failure to remedy conflicts; and (c) failure to comply with a prescribed monitoring plan. The Provost or his/her delegate will review all such reports. Such cases may be forwarded by the Provost to the Standing Committee on Conflicts of Interest and Commitment for review and recommendations. Based on its review, the Committee will make recommendations to the Provost.

If an investigator's failure to comply with this Policy has biased the design, conduct, or reporting of HHS or NSF funded research, the Provost is responsible for taking appropriate action to address the matter within the University and for promptly notifying the awarding agency of corrective action taken or to be taken

### **Appeals**

Any member of the faculty or EPA staff employee shall have the right to appeal any decision under this Policy involving that individual to the appropriate Vice Chancellor and then the Chancellor.

### **Establishment of Monitoring Procedures**

The Department Chair, Dean, Vice Chancellor, or the Standing Committee, if a matter is referred to it, is responsible for designing or, in the case of the Committee, recommending appropriate monitoring mechanisms for Category II and exceptional Category III activities. The reviewing official or Committee may seek advice from individuals outside as well as within the University in preparing such mechanisms. If the reviewing official is the Department Chair, the rationale and the details of a proposed monitoring procedure must be presented to the Dean for review and approval.

### **Definitions**

As used in this policy statement, the following terms have the definitions indicated

1. "Business" means any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust, or any other legal entity organized for profit or charitable purposes. "Business" excludes *University-related entities*, the meaning of which is inclusive of the University, or any other entity controlled by, controlling, or under common control with the University.
2. "Executive position" refers to any position that includes responsibilities for a material segment of the operation or management of a business, including Board membership.
3. The "family" of a faculty or EPA staff employee includes his or her spouse and dependent children.
4. "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:
  - a. Salary, royalties, or other remuneration from the applicant institution;
  - b. Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
  - c. Income from service on advisory committees or review panels for public or nonprofit entities;

- d. An equity interest that when aggregated for the faculty member or EPA staff employee and that individual's spouse and dependent children, meets both of the following tests: Does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a five percent ownership interest in any single entity; or
- e. Salary, royalties or other payments, including consulting fees, that when aggregated for the faculty member or EPA staff employee and that individual's spouse and dependent children over the next twelve months, are not expected to exceed \$10,000.
5. "Participate" means to be part of the described activity in any capacity, including but not limited to serving as the principal investigator, co-investigator, research collaborator or provider of direct patient care. The term is not intended to apply to individuals who provide primarily technical support or who are purely advisory, with no direct access to the data (e.g., control over its collection or analysis) or, in the case of clinical research, to the trial participants, unless they are in a position to influence the study's results or have privileged information as to the outcome.
6. "Sponsored research" means research, training and instructional projects involving funds, materials, or other compensation from outside sources under agreements that contain any of the following, including clinical research:
- a. The agreement binds the University to a line of scholarly or scientific inquiry specified to a substantial level of detail. Such specificity may be indicated by a plan, by the stipulation of requirements for orderly testing or validation of particular approaches, or by the designation of performance targets.
  - b. A line-item budget is involved. A line-item budget details expenses by activity, function, or project period. The designation of overhead (or indirect costs) qualifies a budget as "line item."
  - c. Financial and/or programmatic reports are required.
  - d. The award is subject to external audit.
  - e. Unexpended funds must be returned to the sponsor at the conclusion of the project.
  - f. The agreement provides for the disposition of either tangible or intangible properties which may result from the activity. Tangible properties include equipment, records, technical reports, theses, or dissertations. Intangible properties include rights in data, copyrights, or inventions.
7. "Technology" means any process, method, product, compound, drug, device, or any diagnostic, medical, or surgical procedure developed using University time, facilities, equipment, or funds whether intended for commercial use or not.

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### **Attachment 1**

**"Confidential Personnel Record: Annual Evaluation Form for Possible Conflicts of Interest or Commitment" is part of Policy Statement #11**

**Instructions:**

1. Print [Attachment 1](#), fill out and mail to the Department Chair, or for staff employees, to the appropriate department head. Updated forms must also be submitted throughout the year if changes arise. See section "[Submission of Conflict Evaluation Forms](#)" above for more information.
  2. Print and submit the appropriate Appendix, if you answer "yes" to any question in [Attachment 1](#).
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**Appendices**

- a. [Appendix A](#) - Report of Activities and Relationships with Enterprises Sponsoring University Activities or Doing Business with the University.
- b. [Appendix B](#) - Report of Potential Conflicts of Interest Related to Students.
- c. [Appendix C](#) - Report of Potential Conflicts of Interest Related to Course Materials and Presentations.

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