
**POLICY ON CONFLICTS OF INTEREST AND COMMITMENT
AFFECTING UNIVERSITY EMPLOYMENT
THE UNIVERSITY OF NORTH CAROLINA AT GREENSBORO**

(Approved by the Board of Trustees, November 18, 1993)

(Amended, February 9, 1996)

I. Introduction

On April 16, 1993, the Board of Governors of The University of North Carolina adopted Policies and Guidelines Concerning Conflicts of Interest and Commitment Affecting University Employment. The Board directed constituent institutions to adopt complementary policies and procedures, including definitions of conflicts of interest, methods for publicizing institutional definitions and requirements, and procedures and forms for disclosing relationships and circumstances that may raise questions about conflicts of interest.

The number and complexity of relationships between universities and members of their faculties and research staffs on the one hand and private industry, the federal and state governments, and the nonprofit sector on the other, have grown substantially in recent years. Faculty and EPA nonfaculty employees are encouraged to engage in such outside relationships if those activities are consonant with the University's threefold mission of teaching, research and service. Facilitating the transfer of knowledge and technology to improve society is an important goal of cooperative University-industry and faculty-industry relationships. The purpose of this Policy on Conflicts of Interest and Commitment Affecting University Employment is to provide guidelines for those relationships and procedures that will help insure the primacy of academic integrity.

This Policy is not intended to be a static document. Rather, it must evolve as the University and its community evolve in response to the broader societal environment. All affected employees are encouraged to propose additions or changes to the Policy. Unit heads should actively solicit recommendations from employees within their units. Recommendations for alterations to the Policy should be submitted to the Office of the Provost and the Faculty Senate.

The Policy is organized into twelve sections:

- I. Introduction
- II. Relation to Other Policies and Laws
- III. Applicability
- IV. Definitions
- V. Conflicts of Commitment
- VI. Conflicts of Interest
- VII. Categories and Examples of Potential Conflicts
- VIII. Submission of Disclosure Forms
- IX. Review of Disclosure Forms and Approval of Waivers
- X. Appeals
- XI. Confidentiality and Record Keeping
- XII. Certification of Compliance and Report to Granting Agency of Irresolvable Conflicts

II. Relation to Other Policies and Laws

A. Federal Regulations and Guidelines

This policy is designed to comply with the National Science Foundation's Investigator Disclosure Policy, 60 F.R. 132, pp. 35810-823 (July 11, 1995) and the U.S. Department of Health and Human Services' Objectivity in Research Rules, Subpart F - Responsibility of Applicants for Promoting Objectivity in Research for which PHS¹ Funding Is Sought, 42 C.F.R. Part 50, Subpart F.

B. State 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 the source of the 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. 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 goods to the state. State employees who have contracting responsibilities are prohibited from accepting gifts (other than honoraria or other items of nominal value) from contractors doing business or seeking to do business with the state.

C. Other University Policies

This policy supplements other University policies, including the *Policy on External Professional Activities for Pay*, the *Policy on Political Activities of University Employees*, the *Patent and Copyright* policies, the *Regulations on Academic Freedom, Tenure and Due Process*, and the *Personnel Policies for Designated Employment Exempt from the State Personnel Act*.

III. Applicability

This policy applies to all full and part-time faculty other than adjunct faculty (unless the adjunct faculty member is applying for or is an investigator on projects funded by federal grants), and to all full and part-time EPA nonfaculty employees. This policy also applies to faculty and EPA nonfaculty employees who are on a research leave or leave of absence.

IV. Definitions

- A. "Business" means any corporation, partnership, sole proprietorship, firm, franchise, association organization, holding company, receivership, business or real estate trust, or any other legal entity organized for profit or charitable purposes. "Business" excludes entities controlled by the University.
- B. The term "employee" means all covered faculty and EPA nonfaculty employees.
- C. A "*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 applicant institution;

¹ Public Health Service

- (2) Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
- (3) Income from service on advisory committees or review panels for public nonprofit entities;
- (4) An equity interest that when aggregated for the employee and the employee's immediate family or household, 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 (2) does not represent more than a five percent ownership interest in any single entity; or
- (5) Salary, royalties or other payments, including consulting fees, that when aggregated for the employee and the employee's immediate family or household over the next twelve months, are not expected to exceed \$10,000.

D. An employee's "immediate family or household" includes the employee's spouse, life-mate, child, parent, sibling, grandparent and persons living in the employee's home who have a close personal relationship to the employee (i.e., one who is merely a rent paying tenant would not be included).

E. The "initial reviewing official" is the person designated by this policy as responsible for receiving an employee's annual disclosure form and for determining whether any Category II or III conflicts exist. The initial reviewing official is the employee's unit head. In the case of employees who hold administrative positions, department chairs will report to their deans, deans will report to the Provost, directors will report to the appropriate vice chancellor or the Provost (depending on who has primary responsibility for supervision of the director), and Vice Chancellors and the Provost will report to the Chancellor.

V. Conflicts of Commitment

The term "conflict of commitment" relates to an individual's distribution of efforts 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.

It is the policy of the University that employees are expected to devote their primary professional loyalty, time, and energy to their teaching, research, service and other University duties. Accordingly, outside activities and financial interests must be arranged so as not to interfere with the primacy of these commitments. Failure to do so is a breach of this policy and may constitute misconduct or neglect of duty.

VI. Conflicts of Interest

The term "conflicts of interest" refers to situations in which financial or other personal considerations may compromise, or have the appearance of compromising, an employee's professional 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, and the use of statistical methods. An employee may have a conflict of interest when the employee, or any member of the employee's immediate family or household, has a personal interest in an activity that may affect decision making with respect to University teaching, research or administration.

It is the policy of the University that employees must avoid conflicts of interest that have the potential to affect adversely the University's interests, to compromise objectivity in carrying out University responsibilities, or otherwise to compromise the performance of University responsibilities. Accordingly, personal activities and financial interests must be arranged so as to avoid such conflicts. Failure to do so is a breach of this policy and may constitute misconduct or neglect of duty.

VII. Categories and Examples of Potential Conflicts

Activities that may involve conflicts of interest or commitment can be categorized into three general groups based on the potential for adverse impact on the University's interests. Category I includes those activities that, while conflicts in the technical sense, are allowable because they are not likely to compromise the employee's objectivity. Category II includes those activities that may be allowable with administrative approval and oversight. Category III includes those activities that are presumed to be inappropriate.

Provided below are illustrative, but not all inclusive, examples of activities in each of the three categories.

A. Category I - Activities That Are Routinely Allowable and Are Not Required to Be Disclosed Pursuant to This Policy²

1. Receiving royalties for published scholarly works and other writing or for inventions pursuant to the Patent and Copyright policies.
2. Having a financial interest in a corporation, the exclusive function of which is to accommodate the employee's external consulting activities.
3. 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, and participation in accreditation reviews.

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

External Activities

1. Serving on the board of directors or scientific advisory board of an enterprise that provides financial support for University research conducted by the employee or a member of the employee's immediate family or household.
2. 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 employee's University duties.

Financial Interests

² Although Category I activities need not be reported under this policy, reporting may be required under other policies such as the Policy on External Professional Activities for Pay.

1. Requiring students to purchase the textbook or related instructional materials of the employee or members of the employee's immediate family or household, which produces compensation for the employee or member of the employee's immediate family or household.
2. Receiving compensation or gratuities (other than occasional meals, nominal gifts, etc.) from any individual or entity doing business with the University.
3. Having a *significant* financial interest in a for-profit business which conducts research or other activities in an area related to the employee's University duties.
4. Having a *significant* financial interest in a business that competes with services provided by the University.

C. Category III - Activities That Are Presumptively Not Allowable

Research Activities

1. Participating in University research involving a technology owned by or contractually obligated to (by license or option to license) a business in which the employee or a member of the employee's immediate family or household, has a *significant* financial interest or holds an executive position.
2. Participating in University research which is funded by grant or contract from a business in which the employee or a member of the employee's immediate family has a *significant* financial interest.
3. Assigning students, postdoctoral fellows or other trainees to University research projects sponsored by a business in which the employee or a member of the employee's immediate family or household has a *significant* financial interest
4. Accepting support for University research under conditions that require research results to be held confidential, or unpublished, or inordinately delayed in publication (other than as allowed by Patent and Copyright policies or by policy of the Board of Governors dated February 12, 1988, Administrative Memorandum No. 260).

Self-Dealing

1. Making referrals of University business for an external enterprise in which the employee or a member of the employee's immediate family or household has a *significant* financial interest.
2. Associating the employee's own name with the University in such a way as to profit financially by trading on the reputation or goodwill of the University.

Other

Making unauthorized use of privileged information acquired in connection with one's University responsibilities.

VIII. Submission of Disclosure Forms

All employees are required to complete and submit a disclosure form (Attachment A) on an annual basis as of July 1 to their initial reviewing official as defined in Section IV.E. Updated forms must also be submitted throughout the year if circumstances arise which either give rise to a potential conflict of interest or eliminate a potential conflict previously disclosed.

IX. Review of Disclosure Forms and Approval of Waivers

A. Initial Review

The initial reviewing official shall have the initial responsibility for reviewing the form and for determining compliance with this policy. That determination involves two questions: (1) has the form been properly submitted (i.e., on time and complete) and (2) does the information provided reveal any conflicts or potential conflicts in Categories II or III?

B. Failure to Submit or Improper Submission of Disclosure Forms

If the initial reviewing official determines that a form has not been submitted or is incomplete, the initial reviewing official shall take action to obtain compliance with this policy, including, if necessary, recommendations for disciplinary action.

C. Category II Conflicts

If the initial reviewing official determines that an employee has a Category II conflict the following options are available, depending on the circumstances:

1. The employee may take necessary steps to eliminate the conflict (e.g., through divestiture of a financial or ownership interest or through cessation of the activity); or
2. The initial reviewing official may grant a waiver with or without specified conditions (e.g., public disclosure of *significant* financial interests, or modification of the research plan) or monitoring requirements.

D. Category III Conflicts

If the initial reviewing official determines that an employee has a Category III conflict, the employee must, upon receipt of notice from the initial reviewing official, take immediate steps to eliminate the conflict or apply for a waiver. In order to obtain a waiver, the employee must sustain the burden of demonstrating that, in fact, the employee's objectivity would not be adversely affected or University interests otherwise would not be damaged. If the initial reviewing official decides to grant a waiver, with or without conditions, of a Category III conflict, the decision and the reasons for it must be forwarded to and reviewed by the next highest administrator who may accept, reject or modify the decision.

X. Appeals

An employee may appeal a reviewing official's determination that a disclosure form has been improperly submitted or that a Category II or III conflict exists. An employee may also appeal the denial of an application for a waiver. The appeal shall be considered as an employee grievance and shall be handled under existing grievance appeal procedures for faculty and EPA nonfaculty employees.

XI. Confidentiality and Record Keeping

Completed disclosure forms are confidential personnel records as defined by the State Personnel Records Act. The provisions of that Act governing access to and confidentiality of personnel records shall be strictly observed.

Upon completion of the review process, the initial reviewing official should retain a copy of the disclosure form and send the original to the Office of the Provost for storage in the employee's official personnel file.

XII. Certification of Compliance and Report to Granting Agency of Irresolvable Conflicts

A. Certification of Compliance

Pursuant to 42 C.F.R. § 50.604 (g), each application for PHS funding must contain the following certification:

- “(1) There is in effect at UNCG 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 from the PHS.
- (2) Prior to UNCG's expenditure of any funds under the award, UNCG will report to the PHS awarding component the existence of a conflicting interest (but not the nature of the interest or other details) found by UNCG and assure that the interest has been managed, reduced or eliminated in accordance with 42 C.F.R., Part 50; and, for any interest that UNCG identifies as conflicting subsequent to the Institution'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.
- (3) UNCG agrees to make information available, upon request, to the HHS³ regarding all conflicting interests identified by UNCG and how those interests have been managed, reduced or eliminated to protect the research from bias.
- (4) UNCG will otherwise comply with 42 C.F.R., Part 50.”

B. Report of Irresolvable Conflicts

Conflicts in any activity involving outside funding which cannot be satisfactorily managed, reduced or eliminated must be disclosed to the granting agency in accordance with the National Science Foundation's Investigator Disclosure Policy, 60 F.R. 132, pp. 35810-823 (July 11, 1995). The initial reviewing official will be responsible for making the required disclosure to the granting agency.

³ U.S. Department of Human Health Services