

ARTICLE 26
OUTSIDE ACTIVITY AND CONFLICT OF INTEREST

26.1 Policy.

(a) The University and the UFF recognize that outside employment, consulting, and other similar activities may further the dissemination and use of the faculty member's knowledge and expertise and may also advance the professional competence and reputation of the faculty member. Thus, participation in outside activities often serves the mission of the University in addition to benefiting individual faculty members, and faculty members may participate in outside activities and hold financial interests as long as the activities and interests do not conflict with their duties and responsibilities.

(b) All employees of the University are bound to observe, in all official acts, the standards of ethics set out in the Code of Ethics for Public Officers and Employees of the State of Florida (Chapter 112, Part III, Florida Statutes) and the advisory opinions rendered with respect thereto. Other provisions of laws and regulations of the State of Florida govern obligations and responsibilities of faculty members who receive State compensation in addition to their annual salary.

(c) A faculty member may engage in outside activity, including employment, provided that the activity is in accordance with law and this Article.

(d) This Article shall not be used to deny or retaliate for the legitimate exercise of rights protected by this Agreement, including but not limited to the rights protected by Article 10, Academic Freedom and Responsibility, and Article 22, Intellectual Property.

26.2 Definitions.

(a) "Outside Activity" shall mean any private practice, private consulting, additional teaching or research, financial interest, or other activity, compensated or uncompensated, that is not part of the faculty member's assigned duties and for which the University has provided no compensation where the activity:

- (1) involves more than incidental use of University facilities, equipment, or services;
- (2) involves a student or University employee who is directly or indirectly supervised by a faculty member if the faculty member supervises or evaluates the student or employee;
- (3) involves management, employment, consulting, or other contractual activities with, or ownership or other financial interests in, an entity that does business with the University, by the faculty member, spouse, or child of the faculty member;
- (4) involves management, employment, consulting, and other contractual activities with, or an ownership or other financial interest in, a business that competes with the University;
- (5) involves candidacy for or holding a public office;
- (6) requires the use of books, supplies or other instructional resources at the

University where they are authored or published by the faculty member or an entity in which the faculty member has an ownership or other financial interest;

(7) is a professional, compensated activity, including but not limited to acceptance of honoraria in excess of travel expenses, teaching at another institution, or service as an expert witness;

(8) is a business activity, including but not limited to service on the board of directors or other management, ownership or other financial interest or position, with regard to a business in the same discipline, or field in which the faculty member is employed; or

(9) is any other employment, contractual relationship, or financial interest, including intellectual property rights, of the faculty member which may create a continuing or recurring conflict between the faculty member's interests and the faculty member's public responsibilities and obligations, including time commitments.

(b) "Conflicts of Interest," which can be either permissible or impermissible, shall mean (1) any "outside activity," as defined in Section 26.2(a) above, that interferes with the full performance of the faculty member's professional or institutional responsibilities or obligations; or (2) any employment, contractual relationship, other activity, or financial interest that creates an unlawful conflict between the faculty member's private interests and the faculty member's duties and responsibilities. Certain financial interests and outside activities of a spouse, domestic partner, child, or other relative may be prohibited under Florida or Federal law or this Article.

(c) An "investigator" shall mean the principal investigator, co-principal investigator, or any other employee responsible for the design, conduct, or reporting of the proposed or funded research or educational activities.

26.3 Outside Activity and Conflicts of Interest. Conflicts of Interest as defined in Section 26.2(b), above, are prohibited unless allowed by law and this Article, or permitted by the University and properly monitored.

(a) Faculty members are responsible for resolving such conflicts of interest, working in conjunction with their supervisors and other University officials.

(b) In cases where a conflict is otherwise permitted by the University, the faculty member may be required to enter into a reasonable and appropriate monitoring plan to manage the conflict.

(c) Requirements that a faculty member waive the faculty member's or University's rights to any work or inventions that arise during the course of any outside activity must be specifically approved by the University in conjunction with the approval of the outside activity.

(d) A faculty member who proposes to engage in outside employment shall furnish a copy of Article 22, Intellectual Property, and the University's Intellectual Property Policy to the outside employer prior to or at the time a consulting or other agreement is signed, or if there is no written agreement, before the employment begins.

26.4 Report of Outside Activities that are Potential Conflicts of Interest. If a faculty member proposes to engage in any outside activity as defined in Section 26.2(a) above or receives any financial interest from engaging in any compensated professional activity described in subsection (a)(1), below, the faculty member shall make a written report to the faculty member's chair or equivalent supervisor of the details of such proposed activity prior to engaging therein. Such reports must be submitted prior to engaging in the activity and must be reviewed and approved by the University's designee or designees.

(a) The report shall be made on the Disclosure of Outside Activities and Financial Interests Form shown in Appendix "G" or prior to engaging in the activity, which includes but is not limited to receiving a financial interest. The disclosure shall include the name of the employer or other recipient of services; the funding source; the location where such activity shall be performed; the nature and extent of the activity, which shall include the nature and extent of any financial interest; any intended use of University personnel, facilities, equipment, or services; any conditions of the activity that involve waiving or impairing the faculty member's or University's right to intellectual property; and whether there has been approval of the activity or financial interests in a previous year. For each activity disclosed, other information may be required in order to completely review the activity if there are potential conflicts involved.

(1) The following activities among others could, in some cases, represent a conflict of interest and must be reported prior to engaging in the activity:

- a. Assuming an executive or managerial position or ownership in a for-profit business that may be in a business relationship with the University.
- b. Administering a grant outside the University that the faculty member would ordinarily conduct under the auspices of the University.
- c. Establishing a relationship as a salaried employee or independent contractor outside the University with an entity that is in a business relationship with the University.
- d. Requiring students in a University of Florida course to purchase a product from which the faculty member, the faculty member's spouse or domestic partner or minor child receives a financial interest.
- e. Performing compensated teaching or research at another university while employed as a full-time faculty member at the University of Florida.

(2) The following professional activities, if not prohibited by law, do not need to be reported as an outside activity:

- a. Developing scholarly communications in the form of books or journal articles, movies, television productions, and similar works, even when such activities result in financial gain.
- b. Accepting scholarly or artistic prizes.
- c. Providing expert testimony in administrative, legislative, or judicial proceedings without compensation and as an individual and when the faculty member's duties to the University, including students, will not be compromised.

(3) The following professional activities, if not prohibited by law, also do not need to be reported as an outside activity so long as no compensation is received.

a. Acting in an editorial capacity for a professional journal; reviewing journal manuscripts, book manuscripts, grant or contract proposals, providing academic peer review of course materials, program/curriculum reviews, or tenure or promotion cases, or serving as a committee member or as an officer of a professional or scholarly society.

b. Attending and presenting talks at scholarly colloquia, workshops, and conferences.

(b) A faculty member submitting a federal grant or contract proposal or conducting research or educational activities as an investigator pursuant to such a grant or contract must, at the time the proposal is submitted, report outside activities and financial interests (including activities and interests of the investigator's spouse/domestic partner or dependent children) that would reasonably appear to be affected by the proposed or funded research or educational activities, including interests in entities that would be so affected.

(c) A faculty member may assume tacit approval unless written disapproval is issued within thirty (30) days of filing the written disclosure with the faculty member's chair or equivalent supervisor unless other information has been required of the faculty member under Section 26.4(a), the faculty member is working in conjunction with supervisors and other University officials in determining whether a conflict exists under Section 26.3(a), and/or the faculty member and supervisor and other University officials are formulating a monitoring plan under Section 26.3(b). If it is later determined that the activity represents an impermissible conflict of interest, the faculty member must cease the activity, except as provided in Section 26.8(b).

(d) For outside activity previously reported, a new report shall be submitted at such time as there is a significant change in an activity or financial interest (nature, extent, funding, etc.).

(e) The reporting provisions of this section shall not apply to activities performed wholly during a period in which the faculty member has no appointment with the University of Florida.

(f) Any outside activity that falls under the reporting provisions of this Article and in which the faculty member is currently engaged but has not previously reported, shall be reported and shall conform to the provisions of this Article.

26.5 Faculty-Created Course Materials. The University and the UFF acknowledge that under law faculty members may benefit financially from their intellectual property, including but not limited to instructional materials assigned for use by their students. If, in a University of Florida course or program, a faculty member requires use of instructional materials or other resources in which that faculty member or the faculty member's spouse/domestic partner or dependent child has a financial interest, the following conditions shall apply:

(a) The faculty member shall report on the Disclosure of Outside Activities and Financial Interests Form shown in Appendix "G" the required use of books, supplies, or other

instructional resources at the University when there is a financial benefit to the faculty member or the faculty member's spouse or domestic partner or minor child. Such required materials or resources must

- (1) be selected for academic reasons independent of any financial gains for the individual faculty member;
- (2) be the original work of the faculty member and not solely a collection of the works of others;
- (3) be offered at the fair market price; and
- (4) be under copyright, patent, or trademark, and published or produced by an incorporated or registered publisher, company, or entity and their use does not require the user to waive any intellectual property rights.
- (5) be adopted consistent with the Florida Code of Ethics for Public Officers and Employees and the 2009 Board of Governors Regulation 8.003.

(b) Such required materials or resources also must not include sale, separate from the textbook or workbook, of exams, quizzes, required assignments, extra-credit assignments, and other general course information and evaluative materials that are customarily available in the textbook or workbook or are customarily made available to students free of charge.

(c) The faculty member, the faculty member's spouse or domestic partner or dependent child may receive no financial benefit from instructional materials and other resources the faculty member assigns that have not been adopted for use in the national higher education market unless the use of the materials best serves the academic interests of the class under the circumstances.

(d) All students must be provided with a free copy of the course syllabus that includes an accurate description of the course materials and clearly indicates which materials are required and which are recommended for the course as well as details about exams and other assignments, how grades will be assigned, and any attendance policy.

(e) If, upon the disclosure by the faculty member, the conditions in Sections 26.5(a)–(c), above, are satisfied, then the required use of instructional materials in which the faculty member has a financial interest shall not be interpreted to be an impermissible conflict of interest.

26.6 Determining Whether a Conflict of Interest Exists.

(a) If any questions regarding a potential conflict of interest arise, the immediate supervisor should bring the matter to the attention of the faculty member involved as soon as possible so that it can be determined whether an impermissible conflict of interest exists.

(b) In the course of determining whether a conflict of interest exists, the faculty member should consult this Agreement and work in conjunction with supervisors and other University officials.

(c) If the University or designee finds, following such discussion, that the outside activity represents an impermissible conflict of interest, the University or designee shall promptly notify the faculty member in writing of the decision that the faculty member is violating this Agreement and therefore may not engage in the activity while employed at the University or of the conditions under which the outside activity or financial interest may be permitted under this Agreement, if any.

26.7 A faculty member may request an advisory opinion from the Florida Commission on Ethics (<http://www.ethics.state.fl.us/>) about how Art. II, Sec. 8, Fla. Constitution, or the Florida Code of Ethics applies to the faculty member's situation.

26.8 Grievance Procedure.

(a) In the event the proposed outside activity is determined to constitute an impermissible conflict of interest, and the faculty member disagrees with that determination, the faculty member may file a grievance under the grievance procedure contained in Article 28, Grievance Procedure and Arbitration.

(b) The faculty member may engage in such outside activity pending a resolution of the matter under Article 28, Grievance Procedure and Arbitration. Engaging in such outside activity in such circumstances does not insulate the faculty member from any penalties imposed under Florida or federal law if such activity is prohibited under applicable law.

(c) If the resolution of the matter is that there is an impermissible conflict of interest, the faculty member shall cease such activity immediately and, if allowed by law, the University may require the faculty member to turn over all or part of compensation earned there from.

26.9 Use of University Resources. A faculty member engaging in any outside activity shall not use the facilities, equipment, or services of the University in connection with such outside activity without prior approval of the University or designee. Approval for the use of University facilities, equipment, or services may be conditioned upon reimbursement for such use.

26.10 No University Affiliation. A faculty member engaging in outside activity does so as a private citizen and shall not represent himself or herself to the outside employer or other recipient of services as engaging in such outside activity as an employee, agent, or spokesperson of the University except when specifically authorized in writing by the University to do so.