Conflict of Interest, Conflict of Commitment, and Outside Activities

[Formerly called “Conflicts of Interest, Potential”]

FINAL DRAFT – 12/3/20183/11/19

Reason for Policy
If employees are to be permitted to engage in outside activities that may or will include conflicts of interest or conflicts of commitment, state law requires a university policy to govern such outside activities.

Responsible Office
Office of the President or other office designated by the President.

Scope
This policy applies to all University of Oregon employees, officials, and agents. It does not in any way alter the requirements contained in the Financial Conflict of Interest in Research Policy (II.06.01) or the Inventions, License Agreements, Educational & Professional Materials Development, Patents & Copyrights Policy (II.07.02).

Policy
I. OVERVIEW
Teaching, research, administration, and public service are essential to the mission of the University of Oregon. The function of the University is enhanced by ethical relationships between employees and outside entities. The University encourages employees to engage in outside activities that advance the mission of the University with the expectation that those activities be proactively disclosed, when required by this policy, if they would or could present a conflict of interest (defined below) so they can be managed in a manner that protects integrity, ensures legal compliance, and promotes good stewardship of public resources.

This policy should be read as protecting the academic and personal freedoms of those choosing to engage in outside activities. This policy recognizes the importance of those activities and the value of the application of knowledge outside the institution by authorizing employees’ outside activities.

According to Oregon Statute, in order for employees to be able to receive outside compensation, the University must authorize employees to receive outside compensation (ORS 352.232). Further, the University is prohibited from authorizing outside compensation that “does not
comport with the mission of the public university or substantially interferes with an officer’s or employee’s duties to the university.” (ORS 352.232(2))

This policy does not ban outside activities. Rather, it provides a path to authorizing such activities while also complying with applicable state laws. This policy also provides an appeal process and a process for reporting concerns regarding potential conflicts of interest of employees.

II. DEFINITIONS

Conflict of commitment: A situation where an individual engages in outside activities, either paid or unpaid, that substantially interfere with the individual’s duties to the University of Oregon.

Conflict of interest: Any action, decision, or recommendation by a person acting in their capacity as a University employee that would (for actual conflicts) or could (for potential conflicts) have a private financial impact on the person or their relative, or any business with which either is associated. ORS 244.020(1), (13).

Consulting: Providing expert knowledge or advice to an entity or person. It does not include conducting research and development or the creation of technological improvements, inventions, or software.

Consulting entity: Any business, company, or other organization, including (but not limited to) any partnership, corporation, limited liability corporation, or other institution whether public, for-profit, or not-for-profit that provides expert knowledge or advice to an entity or person.

Employee: Any employee, official, or agent as defined by state law.

Entity: Any business, company, or other organization, including (but not limited to) any partnership, corporation, limited liability corporation, foreign government or agent, or other institution whether public, for-profit, or not-for-profit.

Duties: Responsibilities expected and performed on behalf of the University for which people are employed by the University, as described in a position description, unit-level workload policy, assigned by a supervisor, or otherwise required of an employee by the University.

Outside activities: Things that an employee does which are not duties and are not performed on behalf of the University.

III. GENERAL GUIDELINES

A. Employees are encouraged to engage in outside activities that comport with the mission of the University, including but not limited to dissemination, translation, application, and commercialization of research, scholarship, and creative activity beyond the University.

B. Employees generally may not:

1. Make private, commercial use, without permission, of University supplies, facilities, equipment, employees, records, intellectual property, or any other University resources.
2. Use non-public information accessed as a University employee to obtain a private financial benefit for the employee.

3. Engage in activities that substantially interfere with the employee’s duties to the University (conflict of commitment). The following are examples of instances in which outside activities are presumed not to substantially interfere with an employee’s duties:
   a. For all employees, time commitments while employees are on leave and during University holidays are presumed not to substantially interfere with the employee’s duties to the University.
   b. For all hourly and part-time employees, outside activities that are performed outside of that part-time employment are presumed not to substantially interfere with the employee’s duties to the University.
   c. For full-time 9-month faculty, time commitments that do not exceed one day in each seven-day week, generally averaged over a quarter, are presumed not to substantially interfere with the employee’s duties to the University. For part-time 9-month faculty, the same principle applies but is prorated by FTE.
   d. For both full- and part-time 9-month faculty, any time commitments during the summer months are presumed not to substantially interfere with the employee’s duties to the University unless they have a paid appointment during the summer, in which case the one-day-in-seven principle in 3.c applies during the period of their appointment.
   e. For all sabbatical-eligible faculty, outside activities conducted during a sabbatical are presumed not to substantially interfere with an employee’s duties to the University if they are included as part of sabbatical plan approved by the Provost.

IV. OUTSIDE ACTIVITIES

Some outside activities can be conducted without prior approval, while other outside activities require approval before an employee can engage in the outside activity because of the risk that the outside activity might present a conflict of interest and may need to be actively managed. The President or designee(s) is charged with deciding whether outside activities constitute a conflict of interest and need to be actively managed.

A. Exempt Outside Activities for Which Disclosure and Approval Are Not Required

Prior approval is generally not required for outside activities identified below. However, if any of these outside activities create an actual or potential conflict of interest or conflict of commitment, the employee must disclose the outside activity in accordance with IV.B below.

1. Exempt Outside Activities Unrelated to University Employment

As long as they follow the general guidelines (Section III), employees are generally not expected to disclose outside activities unrelated to their University employment. If there is any doubt whether the outside activity may interfere with the employee’s duties
to the University, or may be related to the employee’s University employment, the employee must disclose the outside activity pursuant to this policy.

2. Exempt Outside Activities Related to University Employment

As long as they follow the general guidelines (Section III), employees are not expected to disclose:

- Reimbursement for travel. Such activity remains subject to ORS 244.025 regarding gifts and ORS 244.042 regarding honoraria.
- Appearances, performances, exhibits, publications, and uncompensated activities for not-for-profit organizations related to University employment.
- Outside activities of “student employees” or “graduate employees.”
- Consulting as an individual or sole proprietor.
- Uncompensated outside activity that does not substantially interfere with the employee’s duties to the University.

Employees must ensure that when they are engaging in outside activities that do not require prior approval, they comply with other University policies, including but not limited to the Policy on Inventions, License Agreements, Educational & Professional Materials Development, Patents & Copyrights (II.07.02).

B. Outside Activities for Which Prior Disclosure and Approval are Required

An employee must seek prior approval pursuant to Section V for all outside activities that may give rise to actual or potential conflicts of interest. Even when the general guidelines (Section III) are followed, employees must seek prior approval for the following (unless exempt under section IV.A.):

1. Employment by or ownership of equity in an entity, including a consulting entity, that carries on activities closely related to the University employee’s duties and/or field of expertise. This excludes consulting as an individual or sole proprietor.

2-2. Outside activities performed in exchange for equity in an entity that carries on activities closely related to the University employee’s duties and/or field of expertise. This excludes publicly-traded equity unless the employee has a majority ownership in that entity.

2-3. Outside activities closely related to the University employee’s duties and/or field of expertise that involve research and development and/or the creation of technological improvements, inventions, or software.

3-4. Managing or significant participation in the day-to-day operations of an entity that carries on activity closely related to the employee’s University duties and/or field of expertise.
Employment of University of Oregon students whom the employee currently teaches, directly supervises, or formally advises in the execution of outside activities.

V. OUTSIDE ACTIVITY DISCLOSURE AND APPROVAL PROCESS

A. Outside Activity Disclosure

1. If they have something to disclose, employees must submit a written disclosure each calendar year. When completing the disclosure, employees should err on the side of caution and provide advance disclosure when they are unsure whether an outside activity is exempt or requires prior approval.

2. Employees are not expected to disclose exempt activities.

3. In addition, if an employee would like to engage in an outside activity that requires prior approval during the year (such as those outlined in Section IV.B), the employee must amend their written disclosure and seek approval prior to engaging in the outside activity.

4. The President or designee(s) will ensure a reminder is sent at least annually to all employees.

B. Review and Approval

1. The President or designee(s) will create procedures for the review of disclosures, decisions about whether an outside activity is approved, and for the review and approval of management plans.

2. Outside activity that creates an actual or potential conflict of interest is subject to a management plan and/or a decision that the outside activity may not be authorized.

3. In approving or denying requests, the President or designee(s) will:
   a. Determine whether the outside activity constitutes a conflict of interest (actual or potential) or conflict of commitment;
   b. Notify the employee of the determination; and
   c. If warranted, develop a management plan, in consultation with the employee and their supervisor, to mitigate the actual or potential conflict(s).

4. Approval may occur for individual or categories of activities.

VI. REPORTING CONCERNS ABOUT ANOTHER EMPLOYEE

Any University employee who has concerns about the permissibility of an activity on the part of another employee should discuss those concerns with their supervisor or the President’s designee(s). Reports can also be made to the Office of Internal Audit using its Fraud & Ethics Hotline. The President or designee(s) will create procedures for addressing concerns regarding the permissibility of any activity under this policy.
VII. APPEALS

Decisions under this policy may be appealed in writing to the President or designee(s). The President or designee(s) will create procedures and timelines associated with appeals.

VIII. ACCOUNTABILITY

This policy has the force of law pursuant to ORS 352.087. Failure of a University employee to comply with this policy and its associated procedures will subject the employee to discipline up to and including termination. Discipline will be imposed consistent with applicable University policies and/or applicable collective bargaining agreements.

Related Resources

Policies related to this policy:

- Academic Freedom
- Employment of More than One Member of Household
- Faculty: Overload Compensation
- Family Relationships and Employment
- Financial Conflict of Interest in Research
- Financial Irregularities
- Freedom of Inquiry and Free Speech
- Inventions, License Agreements, Educational & Professional Materials Development, Patents & Copyrights

Enactment and Revision History

Supersedes all previous issues

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