



03.230 CONFLICT OF INTEREST OR COMMITMENT

Authority:	Chancellor
History:	Revised 08/28/18; Revised 08/23/12; Revised and Reformatted 10/20/06; Adopted 01/01/96; supersedes former Policy No. MSC 1.50
Source of Authority:	UNC Policy Manual, Section 300.2.2
Related Links:	Policy 02.310 Ethics ; HHS Federal Register 42 CFR Part 50 Subpart F and 45 CFR Part 94 ; Annual Conflict of Interest Disclosures ; UNC Policy Manual 300.2.2.1[R] ; UNC Policy Manual 300.2.2[R]
Responsible Office:	Research Integrity Office

I. Policy and Scope

It is the policy of the University of North Carolina Wilmington that activities undertaken by its faculty, staff and students in furtherance of the mission of the University shall be conducted in an ethical and transparent manner consistent with federal and state law and university policy.

All members of the University community are expected to avoid conflicts of interest and conflicts of commitment that have the potential to directly and significantly affect the University's interests or compromise their objectivity in carrying out their University Employment Responsibilities, including research, service and teaching activities and administrative duties, or otherwise compromise performance of University responsibilities, unless such conflicts are disclosed, reviewed and appropriately managed in accordance with the provisions of this Policy. In addition, there are specific training and reporting requirements for individuals that apply for, or receive, certain federal funding by means of a grant or cooperative agreement.

II. Definitions

A. *Conflict of Commitment* refers to a Covered Employee's pursuit of outside activities that involves an inordinate investment of time or is conducted at a time that interferes with the employee's fulfillment of University Employment Responsibilities. Generally, Covered Employees may distribute their time and effort between University Employment Responsibilities and participation in other activities outside of University employment. The latter may include such generally encouraged extensions of professional expertise as professional consulting (*i.e.*, External Professional Activities for Pay). Such activities promote professional development and enrich the individual's contributions to the University, to the profession, and to society.

- B. *Conflict of Interest* refers to situations in which financial or other personal considerations, circumstances, or relationships may compromise, involve the potential for compromising, or have the appearance of compromising a Covered Employee's objectivity in fulfilling their University Employment Responsibilities, including research, service and teaching activities and administrative duties.
- C. *Covered Employee* means:
1. Any full-time or part-time EHRA faculty or non-faculty professional employee of UNCW, an affiliated entity, or other UNCW agency or unit, including EHRA faculty and professional employees who are on leave if the leave is funded at least partially from University sources, and other EHRA or SHRA employees who are applying for or are listed as investigators on externally funded projects;
 2. Any SHRA employee serving in an interim EHRA role, or teaching a course;
 3. Any person who is a Principal Investigator or Project Director of any Public Health Service-supported grant or other project funded by federal grant; and/or
 4. Any person who is designated by a Principal Investigator or Project Director of any Public Health Service-supported grant as being responsible for the design, conduct, or reporting of the Public Health Service-funded research, or who is listed as being senior/key personnel on any grant application or report submitted to the Public Health Service.
- D. A Covered Employee's *immediate family or household* includes that employee's spouse, life-mate, child(ren), parent(s), sibling(s), grandparent(s), grandchild(ren), and persons living in the employee's home who have a close personal relationship to the employee.
- E. *Department* means an academic department, a professional school without formally established departments, or any other administrative unit. *Department Head* refers to the person with supervisory responsibility for the Covered Employee, whether in an academic or non-academic department.
- F. *External Professional Activities for Pay* include 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; 3) is undertaken for compensation; and 4) is based upon the professional knowledge, experience and abilities of the employee. Activities for pay not involving such professional knowledge, experience and abilities are not subject to the advance disclosure and approval requirements of Section IV of this policy, although they are subject to the basic requirement that outside activities of any type must not result in the neglect of Primary Duties, create Conflicts of Interest or Commitment, involve Inappropriate Use or Exploitation of University Resources, or include claims of University responsibility for the activity. External activities for pay of SHRA employees are governed by [Policy 08.120 Secondary Employment](#).

G. *Financial Interest* is defined as:

1. Payment for services to the Covered Employee not otherwise included within University salary (e.g., consulting fees, honoraria, paid authorship);
2. Equity or other ownership interest in a publicly or non-publicly traded entities (e.g., stock, stock options, or other ownership interest); or
3. Intellectual property rights and interests upon receipt of income related to such rights and interest, held by the Covered Employee or members of his/her immediate family or household.

Income from investment vehicles, such as mutual funds or retirement accounts, in which the Covered Employee or member of his/her immediate family or household do not directly control the investment decisions and intellectual property rights assigned to the institution and agreements to share in royalties related to such rights are excluded from the definition of Financial Interest. Covered Employees are required to disclose Financial Interests in a timely and accurate manner consistent with this Policy.

H. *Inappropriate Use or Exploitation of University Resources* means using any services, facilities, equipment, supplies or personnel which members of the general public may not freely use for other than the conduct of University Employment Responsibilities. A person engaged in External Professional Activities for Pay may not use University Resources in the course and conduct of such activities, except as allowed by University policies. Under no circumstances may any Covered Employee use the services of another employee during University employment time to advance the externally compensated employee's professional activities for pay.

I. *University Employment Responsibilities* include:

1. Primary Duties

Primary Duties consist of assigned teaching, scholarship, research, institutional service requirements, administrative duties and other assigned employment duties.

2. Secondary Duties

Secondary Duties may include professional affiliations and activities traditionally undertaken by Covered Employees outside of the immediate University employment context. Secondary duties may or may not entail the receipt of honoraria, remuneration (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 without receipt of compensation; and service to accreditation bodies. These activities, which demonstrate active

participation in a profession are encouraged, provided they do not conflict or interfere with the timely and effective performance of the individual's Primary Duties or other University policies.

III. Conflicts of Interest

A. Generally

This Policy is predicated on the expectation that Covered Employees should conduct their affairs so as to avoid or minimize Conflicts of Interest, and must respond appropriately when Conflicts of Interest arise. Every Covered Employee has an obligation to become familiar with, and abide by, the provisions of this Policy. If a situation raising questions of Conflict of Interest arises, an individual should discuss the situation with the Research Integrity Office (RIO) director or the individual's supervisor.

The bias that Conflicts of Interest may impart can affect many types of University Employment Responsibilities, including decisions about personnel, the purchase of equipment and other supplies, the selection of instructional materials for classroom use, 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. A Covered Employee may have a Conflict of Interest when he or she, or any member of that person's immediate family or household, has a significant financial interest in an activity that may affect decision making with respect to his or her University Employment Responsibilities. While a Conflict of Interest may result from nonfinancial interests or considerations, the overwhelming majority of Conflicts of Interest result from a Financial Interest of a Covered Employee who is in a position to make a supervisory, academic, or administrative decision which may be compromised because of the potential for personal financial gain.

Covered Employees with administrative responsibilities must take particular care to avoid other 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 those that might adversely affect the professional academic advancement of colleagues, or those 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 Covered 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.

B. Disclosures Required

1. Annual Conflict of Interest Disclosure

Covered Employees are required to complete the Annual Conflict of Interest Disclosures (“annual disclosure”) by a date established by the Provost’s Office in order to identify activities that may create a Conflict of Interest or Commitment. In addition to the annual disclosure, Covered Employees are required to disclose new financial interests, relationships, or activities as they arise throughout the year. These requirements are a condition of employment for all Covered Employees. Additional details on the completion and submission of annual disclosures are in instructional materials periodically updated by RIO and posted on the [UNCW Conflict of Interest website](#).

2. Project-Specific Conflict of Interest Disclosure for Externally-Funded Projects

Covered Employees are required to complete a conflict of interest form with each grant proposal submitted through the Research Administration Management System & eSubmission ([RAMSeS](#)). This requirement is in addition to the annual disclosure requirement described above.

C. Disclosure Review and Management

1. Disclosure Review

Initial review of annual or project-specific disclosures will be conducted by the RIO director or designee, who will determine whether:

- a) a report is complete and has been properly submitted; and
- b) supervisory review or review by the Associate Provost for Research and/or the Office of General Counsel is needed due to disclosure of a potential conflict.

2. Potential Conflict Management, Monitoring and Appeal

a. Conflict Management

If necessary to avoid or manage a potential or existing Conflict of Interest or Commitment, the RIO director shall facilitate development of a Conflict of Interest Management Plan with the Covered Employee, the Covered Employee’s supervisor, and if warranted a representative from the Office of General Counsel. Once finalized, the employee must comply with the Conflict of Interest Management Plan for the duration of the subject activity.

b. Supervisor Monitoring

Monitoring of activities related to Conflicts of Interest and Conflicts of Commitment is the responsibility of the Covered Employee’s supervisor, including any activities

disclosed in the annual disclosure. Alternatively, a Covered Employee may take necessary steps to eliminate the conflict (*e.g.*, through divestiture of a financial ownership interest or through cessation of the activity).

Changes in circumstances must be disclosed by the Covered Employee, which the supervisor is responsible for reviewing, issuing a decision on, and making any necessary adjustments to the management plan.

c. Appeals

If disagreement exists between the Covered Employee and administration regarding the permissibility of identified activities or management mechanisms required in the Conflict of Interest Management Plan, the Covered Employee may appeal the decision as described in Section VI of this Policy.

IV. Conflicts of Commitment

A. Generally

It is the policy of the University that Covered Employees devote their primary professional time, effort, and loyalty to their University Employment Responsibilities and that outside activities be arranged so as not to interfere with these commitments.

Although faculty and certain non-faculty EHRA employment is not amenable to precise, time-clock analysis and monitoring, administrators at the department and school levels regularly evaluate the work of Covered Employees within their units. The formal occasions for determining whether an individual is devoting sufficient time and energy to University Employment Responsibilities include annual performance reviews 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 Covered Employee is satisfying their University Employment Responsibilities. If presented with evidence that he or she is not, the Covered Employee may be subject to disciplinary action, including the possibility of discharge, for neglect of duty or unsatisfactory performance, as applicable.

B. External Professional Activities for Pay (EPAPs)

UNCW seeks to appoint and to retain, as employees, individuals of exceptional competence in their respective fields of professional endeavor. Because of their specialized knowledge and experience, these individuals 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. These practical, compensated applications of their professional qualifications enhance capabilities in teaching, research, and administration. Thus, participation in EPAPs, 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.

1. Permissibility

EPAPs should generally be limited to no more than the equivalent of 20% of the Covered Employee's contracted time. Such activities are to be undertaken only if they do not:

- a. Create a Conflict of Commitment by interfering with the obligation of the individual to carry out all Primary Duties in a timely and effective manner;
- b. Create a Conflict of Interest vis-a-vis the individual's status as Covered Employee of the University;
- c. Involve any Inappropriate Use or Exploitation of University Resources;
- d. 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
- e. Claim, explicitly or implicitly, any University or institutional responsibility for the conduct or outcome of the EPAP.

2. Restrictions

- a. EPAPs performed at other UNC institutions

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

- b. Honorarium

In those instances when State-reimbursed travel, work time, or resources are used or when the activity can be construed as related to the Covered Employee's University Employment Responsibilities on behalf of the State, the employee shall not receive any financial consideration, including 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 outside of normal working hours, as defined by the institution, or while the employee is on approved leave, and all expenses are the responsibility of the employee or a third party that is not a State entity. Third party support may need to be disclosed by the Covered Employee.

- c. Political Candidacy

The Board of Governors has 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 Employment Responsibilities, contained in the UNC Policy Manual, 300.5.1 et seq.

3. Notice Requirements

- a. A Covered Employee who wishes to engage in EPAPs must adhere to the notice and approval requirements contained in the [UNC Policy Manual, 300.2.2.1\[R\]](#) in order to provide satisfactory assurances that such activity will not interfere with University Employment Responsibilities.
- b. Exception for Covered Employees Serving On Academic Year Contracts

These notice and approval requirements do not apply to Covered Employees serving on academic year (nine-month) contracts, if the EPAP:

- i. is wholly performed and completed outside of the contract service period;
- ii. does not otherwise conflict with this Policy; and
- iii. is not conducted concurrently with a contract service period for teaching, research, or other services to the University during a summer session.

- c. Notice of Intent to Engage in an EPAP

Notice requirements may be satisfied by disclosing any anticipated EPAPs via the online [Activities, Interests, and Relationships \(AIR\) system](#) on a Notice of Intent to Engage in an External Professional Activity for Pay (EPAP) form at least ten (10) calendar days before beginning the activity. Additional details on the completion and submission of EPAP forms are in instructional materials periodically updated by RIO and posted on the [UNCW Conflict of Interest website](#).

4. EPAP Approval, Monitoring and Appeals

- a. EPAPs are subject to review and approval by the Covered Employee's supervisor. Upon review, the Covered Employee's supervisor will notify the Covered Employee in writing whether or not the proposed activity is approved.
- b. Approval of EPAPs may be granted for a period not to exceed the balance of either:
 - i. the fiscal year (in the case of 12-month employees and employees with contract service periods that include summer session); or
 - ii. the academic year (in the case of nine-month employees with no summer session contract).

- c. If the approved activity will continue beyond the end of the relevant fiscal or academic year in which it began, the Covered Employee must file an additional disclosure before engaging in the activity in the succeeding year.
 - d. Monitoring of activities related to External Professional Activities for Pay is the responsibility of the Covered Employee's supervisor. Changes in circumstances must be disclosed by the Covered Employee, for which the supervisor is responsible for reviewing and issuing a decision.
 - e. In the event the University does not approve the proposed activity, the Covered Employee may appeal the decision in accordance with Section VI of this Policy.
5. Special Provisions for Senior Academic and Administrative Officers (SAAO)

In accordance with the [UNC Policy Manual, 300.2.2.2\[R\]](#), when a Covered Employee who is a SAAO engages in External Professional Activities for Pay, the following additional provisions apply:

- a. Pursuit of Private Interests in Which Activities are Compensated

If a SAAO engages in an EPAP, annual leave must be used if such activities take place within the conventional work week (typically between 8:00 AM and 5:00 PM, Monday through Friday).

- b. Activities for Which an Honorarium is Received

In general, SAAOs may engage in employment-related activities for which an honorarium is received. However, 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 Covered Employee shall not receive an honorarium. In these instances, the Covered Employee may request that the honorarium be paid to the University. An honorarium may be retained by the Covered Employee only for activities performed during non-working hours or while the employee is on approved 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.

V. Categories of Potential Conflicts of Interest or Commitment

Activities that may involve Conflicts of Interest or Commitment fall into four general categories that differentiate interests, activities, and relationships according to potential for adverse impact. Each category of activity must be disclosed. Examples of each category of activity are contained in the guidance document titled [UNCW Conflict of Interest Guidance – Categories of Conflicts and Examples](#), posted on the UNCW Conflict of Interest website.

- A. Allowable

Activities and relationships that are external to University Employment Responsibilities but that do not compromise the objectivity of research results, the integrity of faculty-student interaction, decision-making, or other interests of the University, a sponsor, or the public are generally allowable. This category of activity has generally minimal personal financial impact and otherwise does not represent a potential source of unreasonable bias. If the receipt of compensation or reimbursement is involved, this activity must be reported at least annually and may be subject to investigation and further oversight by appropriate University personnel.

B. Requiring Further Administrative Review

Activities and relationships that suggest a possibility of conflicting interests or commitment require further administrative review and analysis. This category of activity may require an approved management plan in order to prevent actual bias or inappropriate activities, or the perception of bias, and to ensure academic standards and institutional integrity. Upon the establishment of an approved management plan, if required, this category of activity is allowable so long as the Covered Employee maintains compliance with the management plan.

C. Presumed to be Prohibited

Activities and relationships that present serious potential conflicts of interest or present obvious opportunities or inducements to favor personal interests over institutional interests are generally not permitted. In order to engage in this category of activity, the Covered Employee would have to demonstrate to the University's satisfaction the compatibility of such activity with University policy. Upon meeting that substantial burden, an approved management plan must be established.

D. Prohibited

Activities and relationships that create a Conflict of Interest or Commitment and cannot be managed to the University's satisfaction are prohibited. Prohibited activities and relationships must be disclosed so that the Covered Employee can take immediate steps to eliminate the conflict in consultation with the supervisor and RIO director.

VI. Appeals

A Covered Employee may appeal a supervisor's decision regarding Conflicts of Interest, Conflicts of Commitment, and External Professional Activities for Pay. The Covered Employee shall not proceed with the proposed activity but may appeal that decision to the administrative officer to whom the department chair or other supervisor reports (*e.g.*, dean), and then to the chancellor or the chancellor's designee. Appeals must be made in writing within five (5) business days of receipt of the decision to be appealed. For appeals related to Conflicts of Interest or Commitment, the Covered Employee bears the burden of demonstrating

to the officer's satisfaction that the activity at issue is not a Conflict of Interest or Commitment or that it can be managed differently.

A decision on any such appeal shall be given by the administrative officer, or the chancellor or chancellor's designee, as appropriate, to the Covered Employee within ten (10) business days of the date on which the appeal is received.

The decision of the chancellor or chancellor's designee is final.

VII. Federal Research Standards

Federal regulations establish additional conflict of interest standards that apply to research activities funded by various federal agencies, particularly the Public Health Service (PHS) Awarding Components and National Science Foundation (NSF). Covered Employees are required to comply with those standards, which may involve the disclosure of additional information. Accordingly, refer to the guidance document titled [*UNCW Conflict of Interest Guidance – PHS Conflict of Interest Requirements*](#) for PHS conflict of interest procedures and the guidance document titled [*UNCW Conflict of Interest Guidance – National Science Foundation Conflict of Interest Requirements*](#) for NSF conflict of interest procedures, both posted on the UNCW Conflict of Interest website.

Consistent with Federal Acquisition Regulation (FAR) Subpart 9.5, the University is committed to identifying, avoiding, and/or managing actual or perceived Organizational Conflicts of Interest (OCIs) in research activities in its capacity as a federal awardee or contractor. An OCI may arise when members of the University assist in the development of new federal programs or federal contract specifications, and the University subsequently competes for federal support through the new programs or contracts. See the guidance document titled [*UNCW Conflict of Interest Guidance – Organizational Conflicts of Interest*](#) for further discussion of the ways in which OCIs may arise, disclosure requirements, and management plans.

This Policy, combined with the above guidance documents, is designed to comply with the National Science Foundation's Investigator Disclosure Policy, 60 F.R. 132, pp. 35810-823 (July 11, 1995) (<http://www.gpo.gov/fdsys/pkg/FR-1995-07-11/pdf/95-16800.pdf>), 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 (<http://www.gpo.gov/fdsys/pkg/FR-2011-08-25/pdf/2011-21633.pdf>), and FAR Subpart 9.5.

VIII. Training

The University shall provide training on the substantive requirements of this Policy to Covered Employees. The UNC System provides this training through a Conflict of Interest Training website, which Covered Employees may access by logging into the [AIR system](#).

Investigators are required to complete training prior to engaging in PHS-funded research and at least every four years, and immediately upon specifically designated circumstances.

IX. Confidentiality and Record Keeping

Completed annual disclosures are confidential personnel records as defined by the State Human Resources Act. The provisions of that Act governing access to and confidentiality of personnel records shall be strictly observed.

The RIO director will retain disclosure forms and management plans. Management and corresponding forms will also be forwarded to the appropriate dean or second-level supervisor for retention in the Covered Employee's personnel file.