



## **Conflict of Interest, Conflict of Commitment, and Outside Activities**

### **Purpose**

This policy provides the institutional framework of rules and procedures in place to protect the credibility and reputation of the university and its faculty and staff when those employees are engaged in outside activities.

### **Persons Affected**

This policy applies to all university employees.

### **Definitions**

**Business Entity:** Any entity recognized by law through which business for profit is conducted, including a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, or trust.

**Compensation:** Any form of benefit, including but not limited to salary, retainer, honoraria, sponsored travel or reimbursement, intellectual property rights or royalties, or promised, deferred, or contingent interest. Compensation does not include reimbursement for out-of-pocket expenses or sponsored travel that is usual and customary. Also excluded is travel that is reimbursed or sponsored by a federal, state, or local government agency, an institution of higher education, an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education.

**Conflict of Commitment:** A state that occurs when the time or effort that a university employee spends on an outside activity directly or significantly interferes with the employee's fulfillment of their institutional responsibilities or when the employee uses State property without authority in connection with the employee's outside employment, board service, or other activity.

**Conflict of Interest:** A significant outside interest or activity of a university employee or one of the employee's immediate family members that could appear to a reasonable person to directly or significantly affect the employee's performance of their institutional responsibilities. A conflict of interest is generally an issue of financial or personal gain.

**Gifts:** Anything of value, including tickets to entertainment or sporting events, expenses for a trip, and food.

**Honoraria:** A payment for service for which fees are not legal or traditionally required.

**Immediate Family Members:** Include the following:

- (a) A spouse;
- (b) A dependent child or stepchild or other dependent, for purposes of determining federal income tax liability during the period covered by the disclosure statement; and



- (c) A related or non-related, unmarried adult who resides in the same household as the individual and with whom the individual is financially interdependent as evidenced, for example, by the maintenance of a joint bank account, mortgage, or investments.

**Institutional Responsibilities:** An employee's professional responsibilities on behalf of the university. For faculty, this includes research, teaching, service, administrative, and other professional activities such as university committee memberships, and other internal or external service activities. For staff, this includes the employee's responsibilities as related to their job duties and performance expectations.

**Nature and Extent:** The "Nature and Extent" of an outside activity (including an outside job/employment) will include a description of major duties to be performed, the anticipated time commitment, and length of time the activity is expected to continue.

**Outside Activity/ies:** For the purposes of this policy, Outside Activities include (1) those for which university employees receive remuneration while not acting as employees of university (also referred to as "outside employment") or (2) those which are not considered to be part of their professional performance in their positions and thus not reported on their periodic performance report.

**Outside Board Service:** Service on any board, council, or other governing or advisory board of a business, civic, professional, social, or religious organization, whether for-profit or non-profit.

**Outside Employment:** Any activity performed by an employee, other than fulfilling employment obligations at U.T. System Administration or a U.T. System institution, for which remuneration is received, including distance teaching and consulting. A university employee should not accept other employment that could reasonably be expected to impair their independent judgment in performing university duties. Additionally, a university employee should not accept other employment or engage in a business or professional activity that would require or induce them to disclose confidential information required through their official position.

**Personal Investments:** An amount of money that is invested in something by a person, rather than by a company or organization.

**Self-dealing/Transactions with Employees:** Any business in an official capacity with any business entity of which the university employee is an officer, agent, or member, or in which the employee owns a substantial interest.

**Substantial Interest in a Business Entity:** For purposes of this policy, means:

- (a) A controlling interest;
- (b) Ownership of more than 10% of the voting interest;
- (c) Ownership of more than \$5,000 of the business' fair market value;
- (d) A direct or indirect participating interest by shares, stock, or otherwise (regardless of whether voting rights are included) in more than 10% of the profits, proceeds, or capital gains; or
- (e) Service as an officer.

It does not include investments in mutual funds or retirement accounts, so long as the individual does not directly control the investment decisions made in those vehicles.



University Time: For faculty, this time is defined by the number of hours per week necessary for the performance of job duties, which include teaching, research, and service. For some staff this is defined by a work day with set hours, and for other staff this time is defined as a work day with set hours plus on call service as needed.

## **Policy**

It is the policy of Stephen F. Austin State University to provide a transparent system of disclosure, approval, and documentation of its employees' activities outside of the University which might otherwise raise concerns about conflicts of interest or conflicts of commitment. This policy is designed to assist in compliance with state ethics laws, the University of Texas System (UTS) Regents' Rules, and UTS policies. This policy does not rescind any policy provided by UTS or the university, departmental policy, any contract provision, any agreement with the Texas Attorney General, or any law or rule that is more specific or more restrictive concerning conflicts of interest, conflicts of commitment, and outside activities. University employees are required to comply with the more specific or restrictive policy, contract provision, agreement, law, or rule.

## **Procedures**

### **Responsibilities**

- A. All university employees
  - 1. Accomplishes the duties and responsibilities assigned to one's position of appointment.
  - 2. Discloses outside activities as required under this policy through the official electronic disclosure portal.
- B. Approval Authority
  - 1. Reviews outside activities as appropriate and as described in this policy to identify conflicts of interest and conflicts of commitment.
  - 2. When there is a conflict of interest: customizes a management plan in consultation with the individual submitting the disclosure; monitors the management plan or designates an individual to monitor the management plan; and submits the management plan to the approval authority's supervisor for approval.
  - 3. When necessary, follows the appeals process as described in this policy.
- C. Approval Authority's Supervisor
  - 1. When necessary, reviews management plan for approval.
  - 2. When necessary, addresses appeals within ten (10) business days as described in this policy.
- D. Division Head Point of Contact or Designee
  - 1. When necessary, addresses appeals within fifteen (15) business days as described in this policy.
- E. President
  - 1. As outlined in UTS 180, Section 9, the president is subject to certain requirements,



including the requirement to file a report on Outside Board Service with the Office of the Chancellor at the same time that it is filed with the Ethics Commission.

### Required Disclosures and Approvals

A university employee must submit timely disclosure statements as required by law, rule, or policy annually and within thirty (30) days of a change. The employee's position at the university and the contemplated activity will determine which disclosure statements are required.

**Confidential outside activity:** If an employee wishes to engage in an outside activity for which some or all of the relevant information is confidential, the approving authority may nonetheless approve the activity without requiring full written disclosure upon satisfaction that there is a compelling reason to treat the information confidentially and the activity is otherwise fully compliant with this policy and all other applicable laws, university policy, and UTS policies.

- A. University employees are required to disclose annually, or more frequently as needed, the following:
  1. A description of the nature and extent of all outside employment or other compensated activity;
  2. A description of the nature and extent of any outside activity, regardless of compensation, that reasonably appears to create a conflict of interest or commitment;
  3. A description of the nature and extent of any outside (onsite or distance) teaching that is in, or related to, the same discipline as one's area of university teaching responsibilities;
  4. The range of total annual compensation received for any compensated activity, or total annual compensation from a single entity, if it is greater than \$5,000;
  5. A description of the nature and extent of outside board service, regardless of compensation;
  6. A description, including the range of compensation or interest, of any substantial interest in a business entity, which should be provided no later than thirty (30) days after acquiring the interest;
  7. A description of gifts over \$250 to the individual or his or her immediate family members, related to the employee's institutional responsibilities or could appear to a reasonable person to be a conflict of interest, which should be provided no later than thirty (30) days after acquiring the gift. Do not include gifts received from: one's parent, child, sibling, grandparent, or grandchild; or the parent, child, sibling, grandparent, or grandchild of one's spouse; and
  8. A description of the nature and extent of any activity of immediate family members and a description of any substantial interest of immediate family members in a business entity, related to the employee's institutional responsibilities or could appear to a reasonable person to be a conflict of interest, which should be provided no later than thirty (30) days after acquiring the interest.
  
- B. Approval Requirements
  1. Approval is required prior to engaging in the following activities:
    - a. All outside employment or other compensated outside activities;
    - b. All outside board service that reasonably appears to create a conflict of interest or a conflict of commitment, or requires time away from university responsibilities; and



- c. Any uncompensated activity that reasonably appears to create conflict of interest or a conflict of commitment.

#### C. Granting Approval

1. Approval authorities will be held responsible for granting approval for outside activities, outside board service, and interests listed on a disclosure if:
  - a. The activity, service, or interest would not give the appearance of a conflict of interest or, where applicable, a conflict of commitment, to a reasonable person; or
  - b. No conflict of commitment (if applicable) is found and any identified conflict of interest associated with outside activities, board service, or interests has been managed in an approved management plan as described in this policy.
2. Approval authorities should also approve the use of any university resources as required and confirm that research data, confidential information, or intellectual property of the university is being protected.
3. Approvals are expected to occur in a timely manner.
4. Prior approval must be received or a management plan must be in place before an employee begins work on the outside activity or outside board service unless one of the following applies:
  - a. **Retroactive Approval:** In rare instances, an outside activity or outside board service may be approved retrospectively when the employee is called upon to assist in an emergency or urgent situation where it would be impossible or unreasonable to obtain advance approval. In such cases, the activity must be fully disclosed and approval sought from the appropriate approval authority as soon as reasonably possible.
  - b. **Prospective Approval:** Some activity may also be prospectively approved, for up to one year, when an employee describes to the approval authority as fully as reasonably possible the general nature and extent of anticipated, but not confirmed, outside opportunities.

#### D. Rescinding Approval

An approving authority may rescind approval of an outside activity, outside board service, substantial interest in a business entity, or a management plan upon receipt of information indicating that the approved activity, board service, or interest is not consistent with this policy or any applicable law, university policy, or UTS policy, or the management plan has failed to ensure such consistency with policy and law or is not being followed. This action may also be taken if the employee's performance declines.

#### E. Appealing an Approving Authority's Decision

1. If an approval required under this policy is denied or an approval or management plan is rescinded, the employee may request that the approving authority reconsider the decision by providing an explanation in writing and submitting any documentation in support of their request. After reviewing all information and materials submitted by the employee, the approving authority may affirm their original decision or grant the employee's request.
2. If the approving authority affirms their original decision to deny approval or rescind a management plan, the employee may send the approving authority a written notice of appeal. Within ten (10) business days of receiving this notice, the approval authority will forward material submitted by the employee and information relating to the



- approving authority's decision to the approving authority's supervisor. This supervisor will review the materials and within ten (10) business days make a determination, which may include reversing the decision of the approval authority, affirming the decision of the approval authority, or take such other action as they determine is in the best interests of the university.
3. If the employee remains unsatisfied with the supervisor's decision, they may request their division head or division head's designee review the decision.

#### Time Allocation to Outside Activities and Outside Board Service

All compensated outside board service and service to a religious organization must be on the employee's own time using vacation leave, compensatory time (if applicable), or other arrangement by the employee's supervisor. Outside board service may be performed on university time as part of the employee's institutional responsibilities so long as the activity furthers the interest of the university; is a service to a nonreligious organization; is uncompensated (other than for reimbursement of usual and customary expenses); is approved prior to commencement of the activity; and is disclosed (by any formal university mechanism, including the employee's period performance review or faculty activity report).

- A. Faculty: Members of the faculty have flexibility in using their time to prepare for teaching and to engage in research, service, and other scholarly activity. Other responsibilities, such as presenting lectures, being available to meet with students, and participating on university committees, have more rigid time demands. During time periods in which a faculty member holds a full-time appointment, the faculty member may be permitted to engage in outside activities and outside board service that are not included in their university duties so long as such activities and service do not exceed the equivalent of 20% of the employee's full-time obligation. During the time that a faculty member has a part-time appointment, any outside activities must not interfere with the execution of duties related to their part-time appointment at the university. During the time in which the faculty member does not have an appointment (e.g. summer for a faculty member on a nine-month appointment), the faculty member is still required to seek approval for outside activities or outside board service.
- B. Staff: During the period of full-time employment with the university, staff members may engage in outside activities and outside board service so long as such activities and service do not reduce the full-time obligations to the university. Such outside activities and board service are considered an overload. However, the following exception allows staff members to engage in approved outside activities and outside board service on university time only if all of the following criteria are met: the service is not compensation; the service does not exceed eight (8) hours per week; the service does not interfere with the staff member's university duties and responsibilities; and the service clearly contributes to the mission of the university or provides important elements of staff professional development related to their university duties and responsibilities.

#### Conflict of Interest and Conflicts of Commitment Prohibited

- A. University employees may not have a direct or indirect interest, including financial or other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the employee's duties for the university.
- B. Activities on behalf of outside entities or individuals must not interfere with a university



employee's fulfillment of their duties and responsibilities to the university. Such conflicts of commitment may arise regardless of the location of these work/activities (on or off campus), the type of outside entity (individual, for-profit, not-for-profit, or government), or the level of compensation (compensated or not compensated).

- C. A university employee should not intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised their official powers or for having performed their official duties in favor of another. If the benefit was given in exchange for an official act, it could constitute the criminal offense of bribery.
- D. A university employee may not transact any business in an official capacity with any business entity of which the employee is an officer, agent, or member, or in which the employee owns a substantial interest. Additionally, before the university may purchase any supplies, materials, services, equipment, or property from the university employee, the president or their designee must approve the purchase. The purchase may be made only if the cost is less than from any other known source.
- E. A university employee should not make personal investments that could reasonably be expected to create a substantial conflict between the employee's private interest and the public interest. This means that a university employee should not have a direct or indirect financial interest in a business that conflicts with interest of the university or that might influence how the employee does their job. Some financial interest may be so indirect or so minimal that they do not create a conflict of interest, such as ownership of a minimal amount of stock in a company or an investment in a publicly traded mutual fund in which the employee does not exercise discretion regarding the investment of the assets of the fund.
- F. A university employee may not accept an honorarium for services they would not have been asked to provide but for their official status. For example, a university employee may not accept a gift or payment for giving a speech if they would not have been asked to provide the speech but for their official position. However, a university employee may accept meals, transportation, and lodging in connection with their services as long as the services are more than merely perfunctory or superficial. Also, they may accept a gift of up to \$250.
- G. There are two standards under Texas law governing gifts – (1) a general standard of conduct that applies to all employees and (2) a criminal standard that applies only to those persons who make recommendations or decisions about contracts and other financial transactions. Under the general standard, a university employee should not accept or solicit any gift, favor, or service that might reasonably tend to influence the employee in the discharge of official duties or official conduct. This standard applies even if the donor does not ask the employee for anything in exchange for the gift. Acceptance or solicitation of a gift in violation of this standard is not a criminal offense, but is grounds for discipline, including termination. Criminal penalties may apply to employees who make recommendations or decisions about university financial transactions. These employees may not accept a gift from an individual or entity that is interested in or likely to become interest in that transaction, with limited exceptions. Under these exceptions, it is not a criminal offense to accept the following type of gift if the gift is not given in exchange for the employee's official action:
  - 1. Non-cash items worth less than \$250;
  - 2. A gift from a person such as a relative, friend, or business associate with whom the employee has a relationship independent of their official status, if the gift was given on account of that relationship rather than the official status; and



3. Food, lodging, transportation, or entertainment in any amount if the employee accepts them as a “guest”, which means the donor must be present. The law provides additional prohibitions if the donor is a lobbyist registered with the Texas Ethics Commission. Even though an employee may accept a gift described above without committing a crime, acceptance of the gift may still violate the general standard of conduct and constitute ground for discipline.

Additional restrictions apply if the gift is from a student loan lender. The definition of “student loan lender” is very broad and covers entities that may not traditionally be thought of as student loan lenders. Even though the acceptance of a gift may not constitute a crime, it may appear to the public that a gift has influenced the employee in performing their job. Employees should not accept any gift that could appear to influence official conduct, even if the gift is technically legal.

- H. Substantial relationships between any employee and programs sponsored, funded, directed, or controlled by a foreign government, foreign agency, or foreign institution are prohibited, unless property and timely disclosed in accordance with an institution’s applicable policy.

### Management Plans

Management plans must be in place for SFA employees for outside activities and outside board service that may create a conflict of interest or a conflict of commitment before the activity begins. Management plans will be customized by the appropriate approving authority in consultation with the employee and will designate who will be responsible for monitoring the activity to ensure compliance with the plan. Management plans will be presented to the approving authority’s supervisor for review and final approval.

### Salary Supplement

In compliance with Texas Government Code Section 659.0201, when the university accepts a gift, grant, donation, or other compensation from a person that the person designates to be used as a salary supplement for a university employee, the receiving entity shall analyze the gift, grant, or donation for potential conflicts of interest. If a conflict of interest exists, the university will use its current processes and procedures to eliminate or manage the conflict. The gift will be posted on the university’s website without revealing the employee’s name to whom the salary supplement will be applied.

### Use of University Property and Other Resources

University property and other resources may only be used as appropriate to the university’s mission. Use of university property or resources by an employee for any outside activity or outside board service must be explicitly approved by the appropriate approval authority. All individuals granted access to or use of university information resources must be aware of and agree to abide by the requirements in the university’s acceptable use policy.

### General

Non-compliance with this policy may subject a university employee to discipline in accordance with applicable procedures up to and including termination of employment. Additionally, civil and criminal penalties may apply under certain circumstances.

### **Related Statutes or Regulations, Rules, Policies, or Standards**



Tex. Const. art. XVI, §§ 33, 40  
Tex. Gov't Code Ch. 572, 574  
Tex. Gov't Code §§ 667.001-.007

Regents' *Rules and Regulations*, Rule 30104, Conflict of Interest, Conflict of Commitment, and Outside Activities

Regents' *Rules and Regulations*, Rule 60306, Use of University Resources

UTS Policy 180, Policy of Service on Outside Boards

UTS Policy 134, Code of Ethics for Financial Officers and Employees

UTS Policy 175, Disclosure of Significant Financial Interests and Management and Reporting of Financial Conflicts of Interest in Research

UTS Policy 180, Conflicts of Interest, Conflicts of Commitment, and Outside Activities

### **Responsible Executive**

Chief Compliance Officer

### **Forms**

Request for Approval of Outside Activity Form; Employee Annual Conflict of Interest Disclosure

### **Revision History**

September 1, 2023 (original)