

Excerpt from the FSU Faculty Handbook, [Chapter 4](#) (as revised May 20, 2014)

## **Outside Activity/Conflict of Interest**

Outside activity is defined as private or public practice, private consulting, additional teaching or research, or other professional activity, compensated or uncompensated, which is not part of the faculty member's assigned duties and for which the university has provided no compensation.

A Conflict of Interest is defined as any conflict between the private interests of the faculty member and the public interests of the University, or the State of Florida, including conflicts of interest specified under Florida Statutes, or any activity that interferes with the full performance of the faculty member's professional or institutional responsibilities or obligations. Conflicts of interest, including those arising from University or outside activities, are prohibited.

Florida State University encourages University faculty and academic staff to undertake outside activities, subject to the conditions stated in this policy on outside activity, which will increase the employee's professional reputation and service to the community. If an outside activity is undertaken, the faculty member or academic staff member must take reasonable precautions to ensure that the outside employer or other recipient of services understands that the faculty member is engaging in such outside activity as a private citizen and not as an employee, agent, or spokesperson of the University. A faculty member must not engage in any outside activity which the employee may reasonably conclude may create a conflict of interest or which may interfere with the full performance of the faculty member's academic responsibilities in the classroom and in non-classroom administrative, research, and advising obligations. Before assuming or continuing any outside activity, an Outside Activity form (FSU Form FOA 802) must be completed and approved by the chair/supervisor and dean/director/vice president.

After all necessary approvals have been received, the original of this form must be submitted by the dean/director to the Office of Faculty Development and Advancement.

It is not necessary for employees whose activities are in the nature of offering services, such as private consulting or expert witness appearances, on an intermittent or recurring basis to a variety of individual clients throughout the year to submit a separate form for each occurrence. Instead, a single form giving general information about the nature of the activity may be submitted at the beginning of the year.

If the outside activity extends from one academic year through another, a new outside activity statement must be submitted for each additional academic year involved.

## **Florida Statutes, Part III, Chapter 112**

Florida Statutes, Part III, Chapter 112, provide that no faculty or staff member shall engage in any outside activity that interferes with the full performance of his or her assigned duties. They further provide that such activities shall not create a conflict of interest, which is defined in Chapter 112.312 to mean a situation in which regard for a private interest tends to lead to disregard of a public duty or interest. The responsibility for complying with these provisions of Florida law is placed upon the faculty or staff member.

## **Prohibitions under Chapter 112, Florida Statutes**

Unless the conditions cited in the Chapter 112.313(12) exemptions listed below apply, the following activities of faculty and academic staff are prohibited:

1. No employee may rent, lease, or sell realty, goods or services to any institution of the State University System at which that individual is employed, unless the contract was entered into before October 1, 1975, or before beginning public employment. (Chapter 112.313(3), F.S.)
2. No employee may have an employment or contractual relationship with a business entity which is doing business with the State University System or any of its institutions. (Chapter 112.313(7), F.S.)
3. No employee may corruptly use or attempt to use that employment or any property or resource within that employment to secure a privilege, benefit, or exemption for such employee or anyone else. (Chapter 112.313(6), F.S.)
4. No employee may disclose or use information not available to the general public which was gained because of that employee's position for personal benefit or for the personal benefit of another person or business entity. (Chapter 112.313(8), F.S.)
5. No faculty member shall require the use of a textbook written by the faculty member without complying with University policy concerning the use of such textbooks.

## **Exemptions under Chapter 112.313(12), Florida Statutes**

No employee shall be held in violation of Items 1. and 2. above in doing business with the State University System or any of its institutions if any of the following conditions apply:

1. The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and: (a) the employee or the employee's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder; (b) the employee or spouse or child has in no way used or attempted to use his or her influence to persuade the institution or any personnel thereof to enter such a contract other than by the mere submission of the bid; and (c)

the employee prior to or at the time of the submission of the bid has filed a statement with the Department of State disclosing the interest of the employee, spouse, or child in and the nature of the intended business.

2. The purchase or sale is for legal advertising in a newspaper for any utilities service or for passage on a common carrier.
3. An emergency purchase or contract must be made in order to protect the health, safety, or welfare of the citizens of the state or any political subdivision thereof.
4. The business entity involved is the only source of supply within the political subdivision of the employee (generally interpreted to be the University) and there is full disclosure by the employee of the employee's interest in the business entity to the University prior to the purchase, rental, sale, leasing, or other business being transacted.
5. The total amount of the subject transaction does not exceed \$500.
6. The business transaction is specifically approved by the President of the University and is made pursuant to Chapter 1004.23 or 1004.22, F.S. These sections authorize the University to establish and operate a division of sponsored research and obtain and manage patents and copyrights on products resulting from research programs.

## **Interference with Performance of Assigned Duties**

The determination of whether or not and to what allowable extent a given outside activity of a faculty member interferes with the performance of assigned duties is the responsibility of the person's department chairman or appropriate supervisor, who is expected to apply sound professional judgment based upon standard practice in the particular field or discipline. This determination is made pursuant to the following general provisions of Florida law and University Policy:

1. No employee shall solicit or accept anything of value that would be influential to the performance of assigned duties or that is based upon an understanding that the official action or judgment of the employee would thereby be influenced. (Chapter 112.313(2), F.S.)
2. No employee shall have an employment or contractual relationship that will create a continuing or frequently recurring conflict between that employee's private interests and the performance of assigned duties. However this shall not prohibit an employee from having an occupation when that occupation by a person holding such public employment is required by law. (Chapter 112.313(7), F.S.)
3. In determining the allowable extent to which a teaching faculty member's classroom teaching assignment may be modified by rearranging schedules or providing substitute instructors to accommodate approved outside activities, the approving authority shall take into account not only the standard practice in the field or discipline but also the extent to which the outside activity benefits the program, the institution, and the faculty member as discussed in Section I above.
4. Any outside activity that involves both an employee and the employee's supervisor in a relationship, such as business relationships, which affects the ability of the supervisor to perform normal supervisory duties relative to that employee is prohibited.

## **Use of University Facilities in Outside Activities**

Approval of any proposed outside activity which includes an intended use of University facilities, equipment, or personnel may be conditioned upon reimbursement to the University for any additional costs resulting from such use. Outside employment may be approved but use of University facilities, equipment, or personnel denied. If the intended use of University personnel is approved, such personnel may not be compensated by the University for work performed in connection with the outside employment and must obtain approval for such work as outside employment pursuant to University policy.

## **Development of Commercially Valuable Products**

Normal activities of faculty members at research intensive universities often lead to discoveries which have the potential of being developed into commercially valuable products. Such development is encouraged under University Copyright and Patent policy administered by the Vice President for Research. Faculty and staff members making such discoveries should consult with the Vice President for Research as soon as it becomes apparent that such development is possible. University policy includes the following provisions:

1. All patentable inventions and technological developments discovered or developed by a faculty or academic staff member while employed by the University shall be disclosed to the Vice President for Research. Disclosure of discoveries or inventions made during the course of approved outside employment may be delayed when necessary to protect the outside employer's interests until the decision has been made whether to seek a patent.
2. Except for discoveries or inventions made during the course of approved outside employment, a discovery or invention which is made in the field in which the investigator is employed by the University or by using University funds, facilities, materials, equipment, personnel, or proprietary technological information is the property of the University and the inventor shall share in the proceeds therefrom as shall be negotiated with the Vice President for Research and reflected in a written contract between the University and the faculty or staff member.
3. All discoveries or inventions made outside the field in which the discoverer or inventor is employed by the University and for which the University has provided no support are the private property of the inventor. However, the Vice President for

Research, acting for the President, and the inventor may agree that the patent for such discovery and invention be pursued by the University and the proceeds shared.

4. While a faculty or academic staff member may engage in approved outside employment pursuant to a consulting agreement, requirements that the inventor's or University's rights to any patentable inventions or discoveries which arise during the course of such outside employment be waived must be approved by the Vice President of Research, acting for the President. The faculty or academic staff member who proposes to engage in such outside employment shall furnish a copy of this provision, and a copy of Article 18 of the FSU BOT - UFF Collective Bargaining Agreement if in-unit, to the outside employer prior to or at the time the consulting agreement is executed.

## **Financial Disclosure Policy**

Faculty members are reminded that they must comply with the financial disclosure provisions of Florida law. The Florida Commission on Ethics publishes a Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees annually. A copy of this document and any information related to financial disclosure may be obtained from the Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317-5709, or by calling 850-488-7864. The "Code of Ethics for Public Officers and Employees" adopted by the Legislature is found in Chapter 112 (Part III) of the Florida Statutes.

## **University Review Committee on Outside Activities**

If questions arise concerning the application of any of these standards and guidelines, any employee of the University may seek an advisory opinion from the University Review Committee on Outside Activities. An in-unit faculty member may also file a grievance in accordance with the BOT-UFF Collective Bargaining Agreement, Section 19.5. This Committee shall consist of five tenured faculty members appointed by the President of the University after consultation with the Faculty Senate Steering Committee and the Vice President for Research. The terms of Committee members shall be determined by the President, who shall designate one member to chair the Committee.

Provision for administrative and staff support for the University Review Committee on Outside Activities shall be made by the Vice President for Research. The following are included in the charge to the Committee:

1. The Committee shall provide advice and interpretation when requested by a department chairman, dean, or other appropriate supervisor who has received a request to approve an outside activity of a faculty or academic staff member.
2. The Committee shall provide advice and interpretation when requested by a faculty or academic staff member who is considering requesting approval for an outside activity.
3. The Committee may consider both hypothetical and real situations.
4. When a department chairman, dean, or other appropriate supervisor has denied approval for an outside activity on which the Committee has not been consulted previously, the affected faculty or academic staff member may request that the Committee review the action taken. If the Committee concludes that the outside activity could have been approved under these guidelines, it shall consult with the approving authority to seek resolution of the matter. Should satisfactory resolution not be attained, the Committee may recommend to the President that the activity be approved.
5. When necessary the Committee may seek advisory opinions concerning matters before it from the State of Florida Commission on Ethics.
6. The Committee shall exercise a continuing overview of the functioning of these standards and guidelines and related University policy. From time to time, when appropriate, it shall report to the President and recommend any modifications to policy that it deems desirable for the best interests of the University. Such recommendations also might include suggestions that the University seek modifications to State Law in this area.