



**NORTH CAROLINA AGRICULTURAL AND
TECHNICAL STATE UNIVERSITY**

SEC. III – Conflicts Of Interest/Commitment 2.0

CONFLICTS OF INTEREST AND COMMITMENT POLICY

ADMINISTRATIVE POLICY

INTRODUCTION

North Carolina Agricultural and Technical State University (University) is committed to providing quality teaching, research, and service. Often, this mission is served by the active participation of its Employees in activities outside the University. Interaction with business, government, not-for-profit groups, professional societies, academic institutions, and private individuals or organizations contributes to the professional growth of Employees and to the enrichment of University programs. University Employees are, therefore encouraged to share their professional knowledge and expertise through outside activities that do not interfere with their University responsibilities.

While such interaction is encouraged, an Employee's professional or other activities outside the University may result in real or perceived conflicts of interest or conflicts of commitment. These conflicts may affect the way in which the Employee carries out his or her University responsibilities. The purpose of this policy is to provide guidance for recognizing and dealing with actual or potential conflicts of interest and conflicts of commitment. It sets forth University-wide procedures for the disclosure, review, and management of such conflicts.

POLICY

University Employees are responsible for performing their duties in good faith and in the best interests of the University. In particular, Employees 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. Additionally, individuals involved in sponsored research activities are subject to additional Federal, State, and University policies governing conflicts of interest and/or commitment including but not limited to, the University's Conflicts of Interest and/or Commitment in Research Policy and Financial Conflict of Interest and Commitment for Public

Health Service Policy.

SCOPE

This Policy applies to Employees subject to (SHRA) and Employees exempt from (EHRA) the State Personnel Act. This policy also applies to all individuals, regardless of status, involved in federally funded research including the design, conduct, or reporting of such research.

DEFINITIONS

Conflict of Interest (COI): relates to situations in which financial or other personal considerations, circumstances, or relationships may compromise, may involve the potential for compromising, or may have the appearance of compromising an Employee's objectivity in fulfilling their University duties or responsibilities, including research, service and teaching activities, and administrative duties. An Employee may have a Conflict of Interest when the Employee or any member of that person's Immediate Family has a personal Financial Interest in an activity that may affect decision making with respect to their Employment Responsibilities.

Conflict of Commitment (COC): relates to an individual's distribution of time and effort between obligations to University employment 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) or secondary employment activities. Such activities promote professional development and enrich the individual's contributions to the University, to the profession, and to society. However, a Conflict of Commitment occurs when the pursuit of such outside activities involves an inordinate investment of time or is conducted at a time that interferes with the Employee's fulfillment of his/her Employment Responsibilities.

Employee: refers to any person – faculty or non-faculty – who is employed by the University

Employment Responsibilities: includes the Employee's "primary duties" and "secondary duties." Primary duties consist of assigned teaching, scholarship, research, institutional service requirements, and other assigned employment duties. Secondary duties consist of professional affiliations and activities traditionally undertaken by EHRA Employees outside of the immediate University employment context that contribute to the benefit of the profession and to higher education in general and/or to secondary employment activities of SHRA Employees. Such endeavors, which may or may not entail the receipt of honoraria 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; and service to accreditation bodies. Such integral manifestations of one's membership in a profession are encouraged, as extensions of University employment, so long as they do not conflict or interfere with the timely and effective performance of the individual's primary duties.

External Professional Activities for Pay: any activity that (i) is not included within one's University Employment Responsibilities; (ii) is performed for any entity, public or private, other than the

University; (iii) is undertaken for compensation; and (iv) 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 this Policy, although they are subject to the basic requirement that outside activities of any type must not (i) result in the neglect of the Employee's primary duties; (ii) create Conflicts of Interest; (iii) involve inappropriate uses of the University name or resources; or (iv) include claims of University responsibility for the activity. External Professional Activities for Pay of Employees subject to the State Human Resources Act (SHRA) are addressed in the University's Secondary Employment Policy.

Financial Interest: (i) Payment for services to the Employee not otherwise defined as institutional salary (e.g., consulting fees, honoraria, paid authorship) ;(ii) Equity or other ownership interest in a publicly or non-publicly traded entities (e.g. stock, stock options, or other ownership interest); or (iii) Intellectual property rights and interests upon receipt of income related to such rights and interest, held by the Employee or members of his/her immediate family.

Income from investment vehicles, such as mutual funds or retirement accounts, in which the Employee or member of his/her immediate family 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.

Immediate Family: an Employee's spouse, children, parents, and siblings. "Spouse" includes a person to whom one is married or with whom one lives together in the same residence, shares responsibility for each other's welfare, and shares financial obligations.

Inappropriate use or exploitation of University Resources: use any services, facilities, equipment, supplies, or personnel that members of the public may not freely use for other than the conduct of Institutional Responsibilities. A person engaged in external professional activities for pay may not use University resources in the course and conduct of externally compensated activities, except as allowed by the constituent institution's implementing policies and other applicable University policies. Under no circumstances may any Employee use the services of another Employee during University employment time to advance the externally compensated Employee's professional activities for pay or secondary employment.

CONFLICT OF INTEREST

An Employee may have a conflict of interest when he or she, or any member of his or her immediate family, possesses a significant financial interest in an activity that involves his or her Employment Responsibilities while a conflict of interest may result from a relationship, participation in an activity, or other nonfinancial interests, the majority of conflicts of interest result from a financial interest of an 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.

CATEGORIES OF POTENTIAL CONFLICTS

Activities that may create a financial Conflict of Interest may be categorized under four (4) general headings: (i) those that are allowable and are disclosed; (ii) those that are allowable with administrative approval and are disclosed; (iii) those that generally are not allowable and require an approved Conflict of Interest management plan; and (iv) those that are not allowable under any circumstances. The following examples are merely illustrative and do not purport to include all possible situations within the four (4) categories.

1. Activities That Are Disclosed And Allowable

The examples cited below involve activities external to University employment, and thus may present the appearance of a financial conflict of interest, but have little or no potential for affecting the objectivity of the Employee's performance of Employment Responsibilities; at most, some such situations could prompt questions about conflicts of commitment.

- a. Receiving of royalties from the publication of books or for the licensure of Patent and Copyright Policies of the University.
- b. Receiving compensation in the form of honoraria or expense reimbursement, in connection with service to professional associations, service on review panels, presentation of scholarly works, and participation in accreditation reviews.

2. Activities Requiring Disclosure For Review And Analysis

The examples cited below suggest a possibility of conflicting interests that can impair objectivity, but disclosure and resulting analysis of relationships may render the activity permissible and may result in the establishment of an approved management plan.

- a. Requiring students to purchase the textbook or related instructional materials of the Employee or members of his or her immediate family, which produces compensation for the Employee or family member.
- b. Receiving compensation or gratuities from any individual or entity doing business with the University.
- c. Serving on the board of directors or scientific advisory board of an enterprise that provides financial support for University research, when the Employee or a member of his or her immediate family receives all or a portion of such financial support.
- d. Having an equity or ownership interest in a publicly or non-publicly-traded entity or enterprise which either competes with services provided by the University, conducts research or other activities in an area related to the Employee's University duties, or does business with the University.

3. Activities Generally not Allowable / Approval & Conflict Management Plan Required

The examples cited below are not generally permissible, because they involve potential financial conflicts of interest or they present obvious opportunities or inducements to favor personal interests over institutional interests. Before proceeding with such an endeavor, the Employee would have to demonstrate that in fact his or her objectivity would not be affected and University interests otherwise would not be damaged and an approved Conflict of Interest Management Plan is in place.

- a. Participating in University research involving a technology owned by or contractually obligated to (by license or an option to license, or otherwise) an enterprise or entity in which the individual or a member of his or her immediate family has a consulting relationship, has an equity or ownership interest, or holds an executive position.
- b. Participating in University research that is funded by a grant or contract from an enterprise or entity in which the individual or a member of his or her immediate family has an equity or ownership interest.
- c. Assigning students, post-doctoral fellows or other trainees to University research projects sponsored by an enterprise or entity in which the individual or a member of his or her immediate family has an equity or ownership interest.
- d. Consulting for or serving as an officer of a company that has a research agreement with the University.

4. Activities Not Allowable Under Any Circumstances

The examples cited below are activities that are not allowable under any circumstances.

- a. Making referrals of University business to an external enterprise in which the individual or a member of his or her immediate family has a financial interest.
- b. Associating his or her own name with the University in such a way as to profit financially by trading on the reputation or goodwill of the University.
- c. Making unauthorized use of privileged information acquired in connection with one's University responsibilities.
- d. Accepting support for University research under conditions that require research results to be held confidential, unpublished, or inordinately delayed in publication.
- e. Signing agreements that assign University patent and other intellectual property rights to third parties without prior University approval.
- f. Claiming University responsibility for delivering results of work under external activities for pay.
- g. Utilizing University resources to carry out work under external activities for pay.
- h. Using students or University staff to carry out work under external activities for pay.
- i. Any activity otherwise prohibited by law or University policy.

SUBMISSION, REVIEW, AND APPROVAL

Upon hire and on an annual basis, EHRA Employees are required to report their non-university income-producing activities using the EHRA Annual Conflict of Interest Form. SHRA Employees are required to submit the SHRA Annual Conflict of Interest Certification annually. All such

forms must be submitted to the employee's Department Chair (faculty/staff) or Department/Unit Head (staff). Furthermore, every submission of a sponsored research proposal requires a COI certification.

The Department Chair or Department/Unit Head will evaluate forms containing information identifying a potential conflict for evaluation and development of a management plan, as needed. Management plans must be developed in consultation with the affected Employee and approved by the Dean and Provost (faculty/staff) or the appropriate Vice Chancellor/Chancellor (staff). Approved management plans must be submitted to the Office of Human Resources for inclusion in the Employee's personnel file. The approved management plan must be managed by the department.

The Provost/Vice Chancellor/Chancellor, at their discretion, may refer a potential conflict to the Conflict of Interest and/or Commitment Committee appointed by the Provost and Vice Chancellor for Academic Affairs for its recommendation prior to making a decision on whether the activity constitutes a conflict of interest or instituting a management plan. Additional representatives shall be added to the Committee depending on employee type or the nature of the conflict.

Updated forms must be submitted within 10 days if changes arise that the employee believes may either: (a) give rise to a potential conflict of interest activity; (b) eliminate a potential conflict previously disclosed; or (c) results in an affirmative answer to any question previously answered in the negative on the form.

CONFLICTS OF COMMITMENT

A *Conflict of Commitment* occurs when the pursuit of external activities involves an inordinate investment of time or is conducted in such a manner as to interfere with the Employee's fulfillment of university responsibilities. An Employee's engagement in external activities must not interfere with his/her obligation to carry out all university responsibilities in a timely and effective manner. An Employee must avoid overcommitting his/her participation in external activities to the extent they interfere with University responsibilities.

DISCLOSURE OF POTENTIAL CONFLICTS OF COMMITMENT

It is the policy of the University that full-time Employees devote their primary professional time, effort, and loyalty to their University employment responsibilities. Outside activities must be arranged, so they do not interfere with these commitments. Formal occasions for determining whether an individual is devoting sufficient time and energy to university responsibilities include periodic and annual reviews of performance; scheduled reviews incident to promotion, reappointment or tenure decision, or post-tenure review; and review of Notices of Intent to Engage in External Professional Activity for Pay or Secondary Employment, which must be filed by all Employees prior to engaging in such activities.

PROCEDURES FOR EXTERNAL PROFESSIONAL ACTIVITIES FOR PAY

External professional activities for pay require advance reporting and administrative approval pursuant to the University's External Activities for Faculty and Non-Faculty EHRA Employees Policy. An Employee who wishes to engage in external professional activity for pay must adhere to these policies to provide satisfactory assurances that such activity will not interfere with University employment obligations.

ENFORCEMENT AND REPORTING VIOLATIONS OF THIS POLICY

Every Employee is responsible for complying with this policy and applicable state or federal law and regulations pertaining to Conflicts of Interest and Commitment. Employees who do not comply with the provisions of this Policy will be subject to disciplinary action.

References:

UNC Policy Manual Section 300.2.2

UNC Policy Manual Section 300.2.2.1[R]

Approved by the Chancellor

First Approved: September 30, 2019