

ARTICLE 26
OUTSIDE ACTIVITY AND CONFLICT OF INTEREST

26.1 Policy.

(a) When properly approved and managed, the University of Florida and UFF-UF agree that Outside Activities may support faculty professional growth and reputation, create and disseminate new knowledge and ideas, and further the University's mission of excellence in education, research, and service. A faculty member's primary professional obligations are to maintain the highest ethical and professional standards and, as an agent of the University, act in its best interests. Faculty members may engage in approved Outside Activity, including employment, and hold Financial Interests as long as the activities and interests are in accordance with the law and do not conflict with their University duties and responsibilities.

(b) All employees of the University are bound to observe, in all official acts, the standards of ethics set out in the Code of Ethics for Public Officers and Employees of the State of Florida (Chapter 112, Part III, Florida Statutes) and the advisory opinions rendered with respect thereto. Other provisions of laws and regulations of the State of Florida govern obligations and responsibilities of faculty members who receive State compensation in addition to their annual salary. It is prohibited to use a proxy to engage in actions that a faculty member is prohibited from engaging in under the laws and other authorities referenced in this paragraph.

(c) This Article shall not be used to deny or retaliate against the legitimate exercise of rights protected by this Agreement, including but not limited to the rights protected by ARTICLE 10, ACADEMIC FREEDOM AND RESPONSIBILITY and ARTICLE 22, INTELLECTUAL PROPERTY.

(d) Requirements for reporting of Outside Activities in any form or context, including any requirements for reporting of Outside Activities undertaken during leaves, shall follow the general provisions of this Article and applicable state law. Modifications to reporting requirements may be necessitated from time to time to conform to state and federal laws. Refinements to UF's bargained policies shall follow ARTICLE 8, UNIVERSITY OF FLORIDA REGULATIONS AND POLICIES of this agreement.

26.2 Definitions.

(a) "Inside Activity" shall mean any activity a faculty member does as part of their assigned research, clinical, teaching, or service responsibilities including University activities that form the basis for supervisory assessment of their University job performance.

(b) "Outside Activity" is any activity undertaken by the faculty member that is not an Inside Activity.

(c) "Institutional Expertise" shall mean a faculty member's teaching, research or clinical expertise in their University discipline.

(d) "Reporting Household" shall mean a spouse, domestic partner, dependent child or stepchild or any Relative (as defined in Florida Statute 112.312) who shares a household with the faculty member.

(e) "Private Interest" is a concrete Financial Interest, or other material or tangible interest, including compensated or uncompensated relationships, held by or inuring to a faculty member or Reporting Household member, and arising from the faculty member's Outside Activity.

(f) "Entity" shall mean any business, company, or other organization, whether public or private, including without limitation any partnership, corporation, limited liability corporation, unincorporated association, or other institution or organization, whether for-profit or not-for-profit.

(g) "Conflict of Interest" shall mean a Private Interest, or relationship to a relative, that would reasonably appear to (a) adversely influence a faculty member's actions, judgement or decisions, required to carry out Inside Activities or (b) create an unlawful conflict with the faculty member's position as a public employee, as decreed by state or federal law, which includes a situation in which regard for a private interest leads to disregard of a public duty or interest.

(1) A faculty member's exclusive ownership of Works or Inventions - as detailed in Article 22.4(a) and 22.6(a) - does not constitute a Conflict of Interest. However, the exercise of such rights requires disclosure for the purpose of determining a related Conflict of Interest as detailed in 26.2(k).

(h) "Conflict of Commitment" shall mean Outside Activities whose time of occurrence or duration would hinder the faculty member from carrying out Inside Activities.

(1) Outside Activities undertaken entirely during a time when the faculty member has no Inside Activities shall not constitute Conflicts of Commitment although they may constitute Conflicts of Interest. Outside Activities that shall not constitute Conflicts of Commitment include Outside Activities undertaken entirely when the faculty member is not on appointment or contract with the university, such as Outside Activities undertaken by Faculty on 9 or 10 month contracts who have no summer appointment under the provisions of ARTICLE 17 or those undertaken when the faculty member is on appointment but conducted during times or frequencies that do not interfere with the faculty member's Inside Activities.

(i) "Financial Interest" shall mean any Private monetary or equity Interest which would create a Conflict of Interest.

(j) An "Investigator" shall mean the principal Investigator, co-principal Investigator, or any other employee responsible for the design, conduct, or reporting of the proposed or funded research or educational activities.

(k) "Reportable Outside Activity" shall mean any Financial Interest or Outside Activity that is required to be disclosed to the University through the UFOLIO system (APPENDIX G), for the purpose of evaluation of Conflict of Interest, as provided in Items 1 to 11 below. However, Reportable Outside Activities reported through UFOLIO may additionally be evaluated for Conflict of Commitment.

(1) Management or Material Interest: An employee must report a management position (e.g., officer, director, partner, proprietor) held or material interest (more than a 5% ownership interest) owned by themselves, anyone in the Reporting Household, and any Relative (as defined in Florida Statute 112.312) whose position or interest is known to the employee, in an Entity that enters into any agreements or contracts with University (e.g., service agreements, leases, sales agreements).

(2) Publicly-Traded Entity Payments/Ownership: An employee must report receipt of payments from or an ownership interest of \$5,000 or more (including shares, partnership stake, or derivative interests such as stock options) in a publicly-traded Entity by the employee or anyone in the Reporting Household where the payments or ownership interest reasonably appear to be related to the employee's Inside Activities or Institutional Expertise. This does not include an ownership interest managed by a third party, such as a mutual or retirement fund.

(3) Privately-Held Entity Ownership: An employee must report any ownership in a privately held Entity by the employee or a member of the Reporting Household, where the ownership interest reasonably appears to be related to the employee's Inside Activities or Institutional Expertise.

(4) Public Office/Candidate: An employee must report if the employee is a candidate for public office or holds public office.

(5) Outside Teaching Appointments: An employee must report if the employee has or is seeking approval to hold an additional (to their UF appointment) teaching appointment with an outside Entity, in the area of their Institutional Expertise that represents a Private Interest.

(6) Outside Research: An employee must report if the employee oversees or conducts or is seeking approval to conduct any research in the general area of their Institutional Expertise at, or receive any research resources or funding from or through, any Entity other than the University. Research by Investigators conducted at Entities as part of a University sponsored project or research funding received by the University is subsumed under Inside Activity and hence does not need to be disclosed in UFOLIO.

(7) Classroom Works: An employee must report if the employee requires or seeks approval to require students to purchase works to be used in the employee's classroom when such works were created, authored or co-authored (e.g., textbook(s), computer software, electronic or digital media) by the employee or employee's spouse and for which the employee or their spouse will receive, or anticipate receiving payment, loan, subscription, advance, deposit of money or service or anything of monetary value.

(8) Royalties/Copyright/Licensing Income (according to ARTICLE 22 for faculty in the bargaining unit): An employee must report if the employee receives royalties, licensing fees, and/or copyright income in the area of their Institutional Expertise of \$5,000 or more, annually from an Entity other than the University.

(9) Expert Witness/Legal Consulting: An employee must report if the employee serves or seeks approval to serve as an expert witness and/or engage in consulting in the area of their Institutional Expertise or Inside Activities in a legal matter like a lawsuit or a potential lawsuit.

(10) Professional Services Related to Institutional Expertise: An employee must report if an employee provides or seeks approval to provide professional services to an outside Entity in the area of the employee's Inside Activities or Institutional Expertise that represent a Private Interest.

(11) Leadership Roles: An employee must report if the employee has a senior management, administrative, or leadership role, that represents a Private Interest, with an outside Entity related to the employee's Inside Activities or Institutional Expertise where the employee makes executive business and/or financial decisions on behalf of the outside Entity.

(12) Innovation Inducement Cash Value Prize: An employee must report if they choose to participate, as an Outside Activity, in a competition, with a prize amount greater than \$5000, in the area of their Institutional Expertise.

(l) "Non-reportable Outside Activities" include, but are not limited to:

(1) Any activity that is described as not reportable in APPENDIX G (UFOLIO);
or

(2) Reporting for required jury duty; or

(3) Serving in the United States Armed Forces or other branches of the military; or

(4) Participating in scientific or educational conferences, invited colloquia or other events while representing the University, subsumed under Inside Activities; or

(5) Performing unpaid peer review, conference committee or journal editorial duties while representing the University, subsumed under Inside Activities;

(6) Research activities approved and coordinated through the University including research by Investigators conducted at Entities as part of a University sponsored project or research funding received by the University, subsumed under Inside Activities; or

(7) Reviewing proposals for a federal or state government sponsor or a domestic non-profit organization, subsumed under Inside Activities; or

(8) Writing or editing activities that are subsumed under Inside Activities; or

(9) Membership in an academic or professional society (however, serving on the Board or carrying a fiduciary role requires disclosure); or

(10) Receiving honors, academic awards, or an honorary degree from a non-profit institution that are not cash value prizes as set forth in 26.12, subsumed under Inside Activities; or

(11) Taking Sabbatical or Professional Development Leave, subsumed under Inside Activities; or

(12) Serving as a program manager for a federal agency or working on an assignment through the Intergovernmental Personnel Act or a related federal program, subsumed under Inside Activities; or

(13) Participating in the Fulbright (Scholar) Fellowship program, subsumed under Inside Activities; or

(14) Serving as an external member of a thesis, dissertation, or promotion committee, subsumed under Inside Activities.

(m) "Other Disclosable Activities" shall mean Non-reportable Outside Activities that taken alone or together could represent a Conflict of Commitment.

(n) "Permissible Conflict" shall mean an approved Conflict of Commitment or Conflict of Interest that must be managed as the faculty member engages in the corresponding Outside Activity.

26.3 Intellectual Property Conflicts.

(a) Faculty Intellectual Property disclosure requirements and the University's ownership rights to inventions and works are outlined in this Article and ARTICLE 22.

(1) Faculty-Created Course Materials. The University and UFF acknowledge that under law faculty members may benefit financially from their intellectual property, including but not limited to instructional materials assigned for use by their students. If, in a University of Florida course or program, a faculty member requires use of instructional materials or other resources in which that faculty member or the faculty member's spouse/domestic partner or dependent child has a Financial Interest, the following conditions shall apply:

(b) The faculty member shall report the required use of books, supplies, or other instructional resources at the University when there is a financial benefit to the faculty member or the faculty member's spouse or domestic partner or minor child. Such required materials or resources must be

- (1) Selected for academic reasons independent of any financial gains for the individual faculty member;
- (2) The original work of the faculty member and not solely a collection of the works of others;
- (3) Offered at the fair market price;
- (4) Under copyright, patent, or trademark, and published or produced by an incorporated or registered publisher, company, or Entity and their use does not require the user to waive any intellectual property rights; and
- (5) Adopted consistent with the Florida Code of Ethics for Public Officers and Employees and the Board of Governors Regulation 8.003.

(c) Such required materials or resources also must not include sale, separate from the textbook or workbook, of exams, quizzes, required assignments, extra-credit assignments, and other general course information and evaluative materials that are customarily available in the textbook or workbook or are customarily made available to students free of charge.

(d) The faculty member or Reporting Household may receive no financial benefit from instructional materials and other resources the faculty member assigns that have not

been adopted for use in the national higher education market unless the use of the materials best serves the academic interests of the class under the circumstances.

(e) All students must be provided with a free copy of the course syllabus at <http://syllabus.ufl.edu/> that includes an accurate description of the course materials and clearly indicates which materials are required and which are recommended for the course as well as details about exams and other assignments, how grades will be assigned, and any attendance policy.

(f) If, upon the disclosure by the faculty member, the conditions in Sections 26.3(a)–26.3(c), above, are satisfied, then the required use of instructional materials in which the faculty member has a Financial Interest shall not be interpreted to be an Impermissible Conflict of Interest.

26.4 Reporting, Review, and Communication Timeline and Procedure for Reportable Outside Activities.

(a) Faculty must disclose Reportable Outside Activities through the UFOLIO system. Faculty must receive approval through the UFOLIO System prior to commencing such activities. UFOLIO, including FAQ and other information, can be accessed here: <https://compliance.ufl.edu/ufolio/> Reportable Outside Activities must be disclosed through UFOLIO at the following times:

- (1) Upon initial hiring or engagement with the University;
- (2) Prior to acquiring, prior to engaging in, prior to committing to engage in, or implementing a material change to a Reportable Outside Activity; a faculty member may resubmit a Reportable Outside Activity in UFOLIO even if it was previously denied, provided the reason for denial was based on insufficient disclosure, or there is a change in the faculty member's Inside Activities or Institutional Expertise.
- (3) Prior to entering a relationship, including a familial relationship, which could reasonably be perceived as creating a Conflict of Interest; and
- (4) At least annually, when requested by the University, even if attesting to no change from previous disclosures or no disclosures.

(b) The only questions the faculty member must answer in the UFOLIO system can be found in APPENDIX G of this Collective Bargaining Agreement. However, if the reviewer cannot make a determination to approve without additional information or clarification and a faculty member declines or is unable to provide the information or clarification within the timeframe in 26.4(c), the approver may deny the activity for insufficient disclosure of information.

(c) Once submitted in UFOLIO, disclosures should be reviewed, and a determination of either approval or denial should be issued within thirty (30) days, along with a written explanation of a denial. The written explanation should provide a reason for the determination and indicate whether the denial is based on Insufficient disclosure, or Impermissible Conflict of Interest or Impermissible Conflict of Commitment. However, requests for clarifications,

communications between supervisors and the Conflict of Interest Program, approvals for exemptions from applicable provisions of the Florida Code of Ethics for Public Employees, or ancillary reviews by other University offices may result in longer review times. Review status is viewable in UFOLIO at all times. If a decision has not been made by Day 30, a faculty member may allow the review process to continue or request and will receive a determination regarding the disclosure within 72 hours.

(d) If the expected or estimated compensation for Reportable Outside Activities is \$5,000 or more, the faculty member must report the expected or estimated amount of compensation and may be required to provide formal documentation of the number of compensated hours as relevant to the specific Reportable Outside Activity in 26.2(k) and APPENDIX G.

(e) **Advisory Opinion.** A faculty member may request an advisory opinion from the Florida Commission on Ethics (<http://www.ethics.state.fl.us/>) about how Art. II, Sec. 8, Fla. Constitution or the Florida Code of Ethics applies to the faculty member's situation.

26.5 Reporting, Review, and Communication Timeline and Procedure for Other Disclosable Activities.

(a) The faculty member shall disclose Other Disclosable Activities to their chair or director in the manner specified by the chair or director. Such manner must, at a minimum, require that the chair or director is informed of the full extent of the Other Disclosable Activity and time commitment prior to approval. Within thirty (30) days of receiving this information, the chair or director, in consultation with Assistant Vice President for Conflicts, must provide either a written approval of the activity or provide a written determination of Permissible or Impermissible Conflict of Commitment, along with a reason for the determination detailing why the time or duration of the activity could hinder the faculty member from carrying out their Inside Activities. Failure to provide such a determination shall constitute approval by the University. However, if the activity results in documented performance deficiencies in the faculty member's Inside Activities it may be subsequently disallowed.

(b) The faculty member is not required to disclose amounts of compensation but may be required to provide formal documentation of the number of compensated hours.

26.6 Review and Adjudication Authorities.

(a) For Reportable Outside Activities disclosed through UFOLIO the Assistant Vice President for Conflicts of Interest and, depending upon the type of activity or interest, other applicable designated University officials will determine whether the activity constitutes a Permissible Outside Activity with or without an approved Conflicts management plan or is an Impermissible Conflict of Interest. The direct supervisor will be consulted for determining Conflict of Commitment.

(b) For Other Disclosable Activities, the faculty member's direct supervisor, in consultation with Assistant Vice President for Conflicts, will determine whether the activity

constitutes a Permissible Outside Activity with or without an approved conflicts management plan or is an Impermissible Conflict or Commitment.

(c) Determinations in 26.6(a) and 26.6(b) must be made in accordance with the definitions of Conflicts of Interest or Conflict of Commitment and may not be arbitrary, capricious, discriminatory or retaliatory.

(d) The faculty member and the University have a shared responsibility to identify any Permissible or Impermissible Conflict of Commitment and manage the conflict appropriately according to the provisions of 26.7.

(e) Advisory Opinion. A faculty member may request an advisory opinion from the Florida Commission on Ethics (<http://www.ethics.state.fl.us/>) about how Art. II, Sec. 8, Fla. Constitution or the Florida Code of Ethics applies to the faculty member's situation.

26.7 Resolving Conflicts of Interest and Conflicts of Commitment.

(a) Conflicts of Interest or Conflict of Commitment are prohibited unless they are determined to be Permissible by the University and managed.

(b) Faculty must adhere to the highest ethical and professional standards. Potential conflicts must be disclosed as set forth in this ARTICLE 26. If faculty have questions concerning a potential Conflict of Interest or Conflict of Commitment, they must first discuss these concerns with their chair or director.

(c) If any questions arise regarding a potential Conflict of Interest or Conflict of Commitment, the Conflict of Interest Program or immediate supervisor, as applicable, should bring the matter to the attention of the faculty member involved as soon as possible so that it can be determined whether and what type of disclosure is required, whether there is a conflict and if the conflict is permissible.

(d) The Assistant Vice President for Conflicts of Interest and, depending upon the type of activity or interest, other applicable designated University officials and/or direct supervisor may require a faculty member to enter into a reasonable and appropriate monitoring plan to allow for a Permissible Conflict of Interest or Permissible Conflict of Commitment. Immediately following a determination of Permissible Conflict of Interest or Permissible Conflict of Commitment and adoption of the monitoring plan if applicable, a faculty member is permitted to engage in the disclosed Outside Activity. The faculty member is responsible for managing the conflict, working in conjunction with their chair or director.

26.8 Violations.

(a) The University may take administrative or progressive disciplinary action concerning violations of this Article, as set forth in ARTICLE 27, DISCIPLINARY ACTION AND JOB ABANDONMENT.

(b) Failure to Disclose.

(1) Failure to disclose a Reportable Outside Activity by a respective deadline shall result in a written notification from the University, with copies to the faculty member's chair or director and dean, directing the faculty member to complete the disclosure within ten (10) business days. Upon receipt of written notification the faculty member must cease the activity. The faculty may choose to discontinue the activity with no further disclosure or may seek approval to continue the activity.

(2) Failure to disclose more than ten (10) business days following the receipt of a delinquency notification shall result in a written reprimand from the University, with copies to the faculty member's chair or director and dean, indicating the faculty member must complete the disclosure within ten (10) business days.

(3) If a faculty member fails to disclose more than ten (10) business days following receipt of a written reprimand, the University may take additional administrative or progressive disciplinary action against the faculty member as set forth in ARTICLE 27.

(4) Failure to disclose a Reportable Outside Activity or failure to make a truthful disclosure of Reportable or Other Disclosable Outside Activity may subject the faculty member to administrative or progressive disciplinary action as set forth in ARTICLE 27.

(c) Faculty commencing a Reportable or Other Disclosable Outside Activity before receiving approval or determination of Permissible Conflict as required herein may be subject to administrative or progressive disciplinary action as set forth in ARTICLE 27.

26.9 Grievance Procedure.

(a) A faculty member may grieve the University's determination that a faculty member failed to disclose an Outside Activity, or the University's failure to provide a determination within the timelines set forth in 26.4 and 26.5, or the denial of an Outside Activity citing insufficient disclosure or Impermissible Conflict, or the monitoring plan required to manage a Permissible Conflict or any other violation of this Article.

(1) The process and deadline for filing a grievance based on the University's determination that a faculty member failed to disclose, or failed to make a truthful disclosure of an Outside Activity or any other violation of this Article leading to discipline shall be in accordance with ARTICLE 28.

(2) The process and deadline for filing any other grievance challenging the denial of an Outside Activity, including for insufficient disclosure, or challenging the monitoring plan required to manage a Permissible Conflict shall be in accordance with ARTICLE 28 in all respects, except as follows (in 26.9(a)(2)a - 26.9(a)(2)e), unless mutually agreed otherwise. For specificity, where an administrator has made a reasonable judgment involving the exercise of permissible discretion related to an Outside Activity, the arbitrator shall not substitute the arbitrator's judgment for that of the administrator.

a. The grievance shall immediately go to Step 3 Grievance Review in accordance with ARTICLE 28;

b. The hearing shall be by video conference within twenty (20) days whenever feasible; extensions not to exceed ten (10) additional days shall be granted if the UFF-UF or the University can demonstrate in writing that the deadline is unfeasible;

- c. No transcript of the hearing shall be made;
- d. No post-hearing briefs shall be filed;
- e. The arbitrator shall make every effort to render a decision within ten (10) business days of the hearing

26.10 Use of University Resources.

(a) "Incidental Use" of University facilities, equipment or services. Use of university facilities, equipment or services for personal use and/or use in Outside Activities is prohibited. The University recognizes that sometimes faculty may incidentally use university facilities, equipment or services for personal use and does not seek to discipline faculty for incidental use. Incidental Use must not adversely affect the performance of employee's university duties or the university's operations, must be extremely limited in duration and frequency and must be restricted to matters that cannot be addressed during non-working time.

(b) A faculty member engaging in any Outside Activity shall not make more than Incidental Use the facilities, equipment, or services of the University in connection with such Outside Activity without prior approval of the University or designee. Approval for the use of University facilities, equipment, or services may be conditioned upon reimbursement for such use.

26.11 No University Affiliation.

(a) A faculty member engaging in Outside Activity does so as a private citizen and shall not represent himself or herself to the outside employer or other recipient of services as engaging in such Outside Activity as an employee, agent, or spokesperson of the University except when specifically authorized in writing by the University to do so.

26.12 Cash Value Prizes. "Cash Value Prizes" are awards of cash exceeding \$5000 that recognize work performed in the area of a faculty member's University expertise. Cash Value Prizes are distinct from grants, contracts, or gifts that are awarded in advance for proposed work. Cash Value Prizes generally fall into two main categories: (a) Innovation Inducement Prizes, which are awarded to winners of competitions including challenge prizes by Federal or non-profit Agencies requiring the attainment, within a specific time frame, of specific material, technology translation, or commercialization goals; and (b) all other Cash Value Prizes, including recognition prizes for research, scholarly or artistic accomplishments such as the Nobel prizes, the Fields medal, Clay Millennium prize, National book award, or Pulitzer prize.

(a) Innovation Inducement Prizes. Faculty wishing to compete for Innovation Inducement Prizes may do so as one of the following.

(1) An Outside Activity (which requires timely approval as outlined in the Collective Bargaining Agreement) that does not make more than Incidental Use of University facilities, equipment, or services including graduate student and research staff time. Pursuit of an Innovation Inducement Prize within a faculty member's area of expertise and/or using results from the faculty member's previous work at the University does not itself constitute a Conflict within the meaning of this Article. Monies awarded from the prize competition shall be the property of the faculty member.

(2) An Inside Activity. With assigned effort to participate in the prize competition and approval by the chair/director, a faculty Investigator may use University facilities, equipment, or services, including graduate students research administration staff time.

a. If the prize is successfully obtained, the faculty Investigator shall be given the choice to treat the prize as described below.

1. The Prize amount will be treated as net adjusted income and paid out in the same ratios as outlined under the terms of Article 22.7(a) but into residual funds (212). The creator(s) are the prize winners and their share will be paid as a lump sum additional pay. The "University program" shall be interpreted as the team of faculty who won the prize, and the funds for the "University program" shall be deposited into the residual accounts of these faculty.

2. The Award amount will be accounted for as an extramural award to the University but immediately transferred as: 65.6% to prize winners personal residual (fund 212) account. The remainder is journaled in the University's F&A holding project for return at the end of the fiscal year as all indirect costs are returned each year (10% additional to the PI/winner, 7.5% to the department, remainder to the college who will pay RCM to the University). Any allocation of prize funds to the Investigator's research residual account must be used for supporting the research mission of the University, i.e., direct research costs including but not limited to: summer salary, equipment purchases, travel, graduate student support, or other general research activities.

b. If the Investigator does not win the prize, the Investigator shall not be held liable for the University resources spent as part of the approved prize-participation budget.

(b) All other Cash Value Prizes. Faculty wishing to pursue or accept such prizes, if not prohibited by law, do not need to report such activity as an Outside Activity. The full value of any prize obtained belongs to the faculty Investigator who received the prize.