



# TRANSMITTAL LETTER

The University of North Carolina  
*General Administration*

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Transmittal Number 78  
August 23, 2012

## THIS LETTER TRANSMITS CHANGES TO THE *UNC POLICY MANUAL*

- 300.2.2 Conflict of Interest and Commitment  
This supersedes Policy 300.2.2 originally entitled "Conflicts of Interest and Commitment Affecting Faculty and Non-Faculty EPA" and was approved by the Board of Governors on June 15, 2012.
- 300.2.2[G] Guidelines on Implementing the UNC Conflict of Interest and Commitment Policy  
These Guidelines were adopted and approved by President Ross on June 21, 2012.
- 300.2.2.1[R]\* Regulations on External Professional Activities for Pay by Faculty and Non-Faculty EPA Employees  
These Regulations were amended and approved by President Ross on June 21, 2012.
- 300.2.2.2[R]\* Regulations for Senior Academic and Administrative Officers on External Professional Activities for Pay and Honoraria  
These Regulations were amended and approved by President Ross on June 21, 2012.

\*A redline version reflecting these changes made to these guidelines is attached herein.

The *UNC Policy Manual* is accessible on our website at:  
<http://www.northcarolina.edu/policy/index.php>

*Attachments*

## **Conflict of Interest and Commitment**

*The Code of the University of North Carolina* affirms that the basic mission of the faculty is "the transmission and advancement of knowledge and understanding." Faculty employment entails the core responsibilities of teaching, scholarly research and publication, and other professional service to the institution and to society. Realization of those objectives is facilitated and encouraged by certain distinctive characteristics of employment within an academic community, which differs markedly from the conventional work-day and work-week employment models in most business and industrial settings.

Faculty members pursue their specialized professional interests in other contexts, collateral to their immediate University employment. They hold memberships in and attend meetings of professional associations and learned societies; they serve on review or advisory panels; they present lectures, papers, concerts and exhibits; they participate in seminars and conferences; they review and edit scholarly publications; and they participate in accreditation reviews. Faculty and non-faculty EPA employees ("Covered Employees") have opportunities to use their specialized competencies in secondary professional employment, as paid consultants to public and private agencies, and thereby contribute to the transfer and application of knowledge.

As relationships between Covered Employees and private industry, federal and state governments, and nonprofit agencies have grown in number and scope, there has been a corresponding increase in concern about conflicts of interest and commitment. While these Covered Employees are encouraged to engage in appropriate relationships with public and private agencies outside of the University, there is a need for commonly understood principles and corresponding procedures that will identify, address and manage potential conflicts that would detract from or interfere with a Covered Employee's dedication of unbiased primary professional loyalty, time, and energy to University teaching, research, and service.

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.

It is the policy of the University of North Carolina 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.

### **I. Definitions**

A. *Conflict of Interest* 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 a Covered Employee's objectivity in fulfilling their University duties or responsibilities, including research, service and teaching activities and administrative duties. The bias that such conflicts may impart can affect many University 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 has a personal financial interest in an activity that may affect decision making with respect to his or her Employment Responsibilities. For the purposes of this Policy, a Covered Person's immediate family includes that person's spouse and dependent children. While a Conflict of Interest may result from nonfinancial interests or considerations, the overwhelming

[Supersedes Policy 300.2.2 originally entitled "Conflicts of Interest and Commitment Affecting Faculty and Non-Faculty EPA"]

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 potential financial gain from a Financial Interest.

B. *Financial Interest* is defined as:

1. Payment for services to the Covered Employee not otherwise defined as institutional 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.

Income from investment vehicles, such as mutual funds or retirement accounts, in which the Covered 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. Covered Employees are required to disclose Financial Interests in a timely and accurate manner consistent with the implementing policies of the Constituent Institutions.

C. *Conflict of Commitment* 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). Such activities promote professional development and enrich the individual's contributions to the institution, 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 University Employment Responsibilities.

D. *External Professional Activities for Pay* is defined as 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 employer; 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 III 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 University duties, creation of Conflicts of Interest, involve inappropriate uses of the University name or resources, or include claims of University responsibility for the activity. External activities for pay of employees covered by the State Personnel Act are addressed in the State Personnel Act, Section 3 Employment and Records, Secondary Employment.

E. *University Employment Responsibilities* include "Primary Duties" and "Secondary Duties." Primary Duties consist of assigned teaching, scholarship, research, institutional service requirements, administrative duties and other assigned employment 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 University Duties or University policies.

F. *Covered Employee* is defined as any faculty or EPA non-faculty person employed by the University of North Carolina or a Constituent Institution, an affiliated entity, or other agency or unit of the University of North Carolina. The implementing policies of Constituent Institutions may further define Covered Employee to include additional classifications of personnel and students, which would further be considered Covered Individuals.

G. *Constituent Institution*, for the purposes of this policy, includes affiliated entities of the University of North Carolina, General Administration, and units associated with General Administration. Affiliated entities and other units of General Administration may implement Conflict of Interest policies consistent with this policy or adopt the policy of one of the constituent institutions.

H. *Department* means an academic department, a professional school without formally established departments, or any other administrative unit designated by the chancellor of an institution or by General Administration, for the purposes of implementing this policy. "Department Head" refers to the person with supervisory responsibility for the Covered Employee, whether in an academic or non-academic department.

I. *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 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.

## II. Conflicts of Interest

Constituent Institutions shall develop detailed implementing policies and procedures that establish parameters of general applicability that will permit their institution and their employees to recognize potential Conflicts of Interest, and to institute basic procedures for disclosing Financial Interests and managing potential or actual Conflicts of Interest. Institutional policies shall require that a Covered Employee's professional activities and financial interests must be arranged to avoid circumstances that do or may prevent or limit objectivity in the performance of University Employment Responsibilities or that otherwise do or may adversely affect any University interests. The implementing policies and procedures of the Constituent Institutions will ensure compliance with prevailing Federal regulations. Institutions may develop separate policies to address specific federal and state requirements. In the event federal agencies or other external sponsors impose additional disclosure requirements on Constituent Institutions, disclosure to the sponsor must also include disclosure to the University.

### A. Avoiding conflicts of interest

Each constituent institution must adopt policies and procedures that:

1. effectively impart a clear understanding of permissible and impermissible conduct;

2. provide for disclosure of Financial Interests, review of disclosures in the context of University Employment Responsibilities and processes to manage or mitigate conflicts of interest;
3. provide for training of employees on its conflict of interest policy, the audience, content and frequency of which will be determined by the Constituent Institution's implementing policies and procedures; and
4. provide for compliance with applicable federal regulations.

Critical to the success of any program established to address Conflicts of Interest is employee understanding of the potential problems, so that individuals are equipped to avoid such conflicts on their own initiative. While in many situations the conflict of interest would be obvious to all, in other situations the potential difficulty would not be so apparent. Since concern about Conflicts of Interest appropriately embraces situations in which there is a potential for or appearance of conflict, as well as actual conflict, there may be differing views about what is or is not a problematic activity or affiliation. Thus, the faculty and administration of each Constituent Institution must establish basic definitions of activities and circumstances with a potential to create Conflicts of Interest and then must ensure that all affected employees are fully informed, on a regular and continuing basis, through training and distribution of institutional policies and procedures on individual Conflicts of Interest and Conflicts of Commitment.

Each Constituent Institution must establish procedures that elicit information in a timely manner about potential Conflicts of Interest related to the Covered Employee's University Employment Responsibilities. Designated administrative officials or faculty, as defined by the Constituent Institution's implementing policies and procedures shall analyze the disclosed financial interest in the context of the Covered Employee's University Employment Responsibilities and decide whether the activity or affiliation in question actually presents a Conflict of Interest and, if so, what safeguards or remedial actions should be taken. Covered Employees shall be required to supplement the information elicited by the Conflict of Interest questionnaire at any time during the academic year when a new Financial Interest might entail a Conflict of Interest. In each case a designated administrative officer would provide a final ruling, subject to any prescribed rights of appeal in the Constituent Institution's implementing policies and procedures.

In combination, the University's policy on Conflicts of Interest, the required disclosure process, and publicity and training should assist all Covered Employees avoid any difficulties recognizing and managing Conflicts of Interest.

Each Constituent Institution may adopt additional related internal policies, procedures, and guidelines consistent with this Policy.

The UNC Board of Governors' Policy on Conflict of Interest and Commitment, *UNC Policy Manual* 300.2.2, is effective August 24, 2012.

Each Constituent Institution shall submit to the President a copy of its institutional policies and procedures on individual Conflicts of Interest, including definitions of Conflicts of Interest, methods for publicizing the policy and training Covered Employees on institutional definitions and requirements, and procedures and questionnaires for disclosing relationships and circumstances that may raise questions about Conflicts of Interest. Any substantial modifications of the Constituent Institution policies and procedures for individual Conflicts of Interest should also be forwarded to the President after approval by the Constituent Institution.

### III. Conflicts of Commitment

[Supersedes Policy 300.2.2 originally entitled "Conflicts of Interest and Commitment Affecting Faculty and Non-Faculty EPA"]

Questions about conflict of commitment are more easily recognized and resolved than questions about Conflicts of Interests. Although full-time faculty and other non-faculty EPA employment is not amenable to precise, time-clock analysis and monitoring, administrators at the department and school levels regularly evaluate the work of employees within their units. The formal occasions for determining whether an individual is devoting sufficient time and effort to University employment include regular reviews of performance in connection with annual salary decisions 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 employee is meeting the requirements of the job. If presented with evidence that he or she is not meeting full-time responsibilities to the University, *The Code* prescribes that "neglect of duty" is a ground for disciplinary action, including the possibility of discharge. The following describe instances of activities that require specific monitoring to demonstrate compliance with policies.

A. External Professional Activities for Pay

The University of North Carolina and its Constituent Institutions seek 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 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 of employees in external professional activities for pay, 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. However, External Professional Activities for Pay are to be undertaken only if they do not:

1. Create a Conflict of Commitment by interfering with the obligation of the individual to carry out all University Employment Responsibilities in a timely and effective manner;
2. Create a Conflict of Interest because of the individual's status as a Covered Employee of the University;
3. Involve any inappropriate use or exploitation of University resources;
4. Make any use of the name or marks of the University of North Carolina or any of its Constituent Institutions for any purpose other than professional identification; or
5. Claim, explicitly or implicitly, any University or institutional responsibility for the conduct or outcome of the External Professional Activities for Pay.

The *UNC Policy Manual*, 300.2.2.1[R], contains provisions established to monitor possible Conflicts of Commitment, including mandatory pre-approval at appropriate university levels of External Professional Activities for Pay. A faculty or non-faculty EPA employee who wishes to engage in External Professional Activity for Pay must adhere to these regulations to provide satisfactory assurances that the activity will not interfere with University Employment Responsibilities. These regulations may not apply to faculty and non-faculty EPA employees serving on academic year (9-month) contracts, if the External Professional Activity for Pay is wholly performed and completed outside of the contract service period and the activity does not conflict with the policies of the Constituent Institution or Board of Governors and is not conducted concurrently with a contract service period for teaching, research, or other services to the institution during a summer session.

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 earned paid or annual 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 under the implementing policies and procedures for Constituent Institutions. In addition, senior academic and administrative officers may also be subject to special regulations regarding honoraria which require leave to be taken when External Professional Activities for Pay will take place during the regular work week. Please refer to the *UNC Policy Manual*, 300.2.2.2[R].

Instead of using earned paid or annual leave as set out above employees who are exempt from the Fair Labor Standards Act and who are out of work due to an External Professional Activity for Pay, or who wish to retain an honorarium, may be able to use periodic uncompensated leave rather than annual leave, provided the Constituent Institution implementing policies allow the use of uncompensated leave, and the appropriate Department Head approves.

External Professional Activities for Pay performed for another UNC Constituent Institution or agency of the State of North Carolina also must comply with applicable State policies governing dual employment and compensation, unless an exception to those State policies is expressly authorized by the chancellor or the President.

The Board of Governors has also 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 duties. Please refer to *UNC Policy Manual*, 300.5.1 et seq. for specific policy details.

## **Guidelines on Implementing the UNC Conflict of Interest and Commitment Policy**

Various federal regulations and state laws and policies specifically address conflict of interest and conflict of commitment of personnel associated with UNC Constituent Institutions. Several prominent federal agencies have agency-specific policies regarding Conflict of Interest, chiefly the Public Health Service (PHS) and the U.S. Department of Health and Human Services, including the National Institutes of Health, and the National Science Foundation. Further, North Carolina General Statute 138A also addresses Conflict of Interest as it applies to employees of the UNC Constituent Institutions.

The purpose of these guidelines is to provide a framework for UNC Constituent Institutions in the development, implementation, publicizing, training, monitoring and enforcement of implementing institutional policies and procedures for Conflict of Interest, Conflict of Commitment and External Professional Activities for Pay. These guidelines are organized to provide definitions, examples of conflicts of interest within the context of the UNC Policy on Conflict of Interest and Commitment (see *UNC Policy Manual 300.2.2*) and agency-specific thresholds and requirements.

### **I. Categories of Potential Financial Conflicts of Interest**

Activities that may involve financial conflicts of interest may be categorized under four general headings: first, those that are allowable and are disclosed; second, those that are allowable with administrative approval and are disclosed; third, those that generally are not allowable and require an approved conflict of interest management plan; and fourth, 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 categories:

#### **A. Activities that are allowable and are disclosed**

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 Covered Employee's performance of Institutional Employment Responsibilities; at most, some such situations could prompt questions about conflicts of commitment.

1. A Covered Employee receiving royalties from the publication of books or for the licensure of patented inventions subject to the UNC Patent and Copyright Policies.
2. A Covered Employee 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.

#### **B. Activities requiring disclosure for further administrative 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.

1. A Covered Employee 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.
2. A Covered Employee receiving compensation or gratuities from any individual or entity doing business with the University. Note that no university employee may seek or receive any gift, reward, or promise of reward for recommending, influencing, or attempting to influence the award of a contract by his or her employer (See G.S. 14-234 and G.S. 138A).
3. A Covered Employee serving on the board of directors or scientific advisory board of an enterprise that provides financial support for University research and the employee or a member of his or her immediate family may receive such financial support.

4. A covered employee or a member of his /her immediate family having an equity or ownership interest in a publicly or non-publicly-traded entity or enterprise.

5. Covered Employee accepting support for University research under conditions that require research results to be held confidential, unpublished, or inordinately delayed in publication. Research conducted by faculty or students under any form of sponsorship must maintain the University's open teaching and research philosophy and must adhere to a policy that prohibits secrecy in research. Such conditions on publication must be in compliance with *UNC Policy Manual*, 500.1 and 500.2, and with campus Intellectual Property policies.

C. Activities or relationships that are generally not allowable or permitted unless an approved Conflict of Interest Management Plan is in place

The examples cited below involve situations that 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 Covered 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.

1. A Covered Employee 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.

2. A Covered Employee participating in University research which 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.

3. A Covered Employee 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. Activities that are not allowable under any circumstances

1. A Covered Employee 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.

2. A Covered Employee 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.

3. A Covered Employee making unauthorized use of privileged information acquired in connection with one's University responsibilities.

4. A Covered Employee signing agreements that assign Institution patent and other intellectual property rights to third parties without prior Institutional approval.

5. Any activity otherwise prohibited by law or university policy

## II. Federal and State Regulations

The following resources are established to provide guidance to UNC Constituent Institutions in the establishment of implementing policies for the avoidance of conflicts of interest and conflicts of commitment in the conduct on University responsibilities including teaching, research and service. The Institution may have more stringent financial disclosure requirements. Please refer to the Institution's

conflict of interest policy and confer with the Institution's designated official(s) to determine the Institution's disclosure requirements.

**A. Public Health Service/US Department of Health and Human Services**

The Public Health Service (PHS) and the U.S. Department of Health and Human Services issued revised regulations on the "*Responsibility of Applicants for Promoting Objectivity in Research for which PHS Funding is Sought and Responsible Prospective Contractors*" (commonly known as the Financial Conflict of Interest (FCOI) regulations) on August 25, 2011. These regulations establish new standards and clarify previously issued standards to be followed by Institutions that apply for or receive research funding from PHS Awarding Components, including the National Institutes of Health (NIH), for grants, cooperative agreements, and research contracts. The 2011 revised regulations were written to increase accountability, add transparency, enhance regulatory compliance and effective Institutional management of Investigator's financial conflicts of interest, and strengthen PHS's compliance oversight. The primary goal is to promote objectivity by establishing standards that provide a reasonable expectation that the design, conduct, and reporting of research funded under PHS grants, cooperative agreements, and research contracts will be free from bias resulting from Investigator financial conflicts of interest.

Institutions must maintain an up-to-date written Conflict of Interest policy, must ensure the policy is enforced and make the policy available via a publically-available website. The institution must inform investigators of their responsibilities regarding disclosure of significant financial interests and the applicable federal regulations.

The full regulatory citation for the PHS policy is located at the following URL: <http://grants.nih.gov/grants/policy/coi/>

1. Required Compliance/Implementation Date

An Institution applying for or receiving PHS funding from a grant or cooperative agreement must be in compliance with all of the revised regulatory requirements no later than 365 days after publication of the regulation in the Federal Register, i.e., August 24, 2012, and immediately upon making the Institution's Financial Conflict of Interest policy publicly accessible as described in 42 CFR part 50.604(a). When the Institution posts its Financial Conflict of Interest policy (or, if the institution does not have a current presence on a publicly accessible Web site, makes the policy publicly accessible by written request), it signifies that the Institution applying for or receiving PHS funding from a grant or cooperative agreement that is covered by the 2011 revised regulation is in full compliance with all the regulatory requirements. The Institution must be in compliance with the 2011 revised regulation no later than August 24, 2012.

2. Applicability of Revised FCOI Regulations (Institutions)

The regulation is applicable to each Institution that is applying for, or that receives, PHS research funding by means of a grant or cooperative agreement. The revised regulation will apply to each grant or cooperative agreement with an issue date of the Notice of Award that is subsequent to the compliance dates of the final rule (including noncompeting continuations) no later than August 24, 2012 and immediately upon making its Financial Conflict of Interest policy publicly accessible. Through their policies, however, Institutions may choose to apply the revised regulations to all active PHS awards. The regulation does not apply to Phase I Small Business Innovative Research (SBIR) Small Business Technology Transfer Research (STTR) applications.

3. Applicability of Revised FCOI Regulations (Investigators)

The regulation is applicable to each investigator, through implementation of the regulation by the Institution, who is planning to participate in, or is participating in PHS research funded by means of a grant or cooperative agreement. The term investigator applies to the individual identified as the project director or principal investigator and

any other person, regardless of title or position, who is responsible for the design, conduct, or reporting of research funded by the PHS, or proposed for such funding and may apply to faculty, post-doctoral fellows and graduate students. For purposes of financial disclosure only, the regulation covers the Investigator's spouse and dependent children. The regulation also applies to those few cases where an individual, rather than an Institution, is applying for or receives PHS research funding. However, in those cases, the PHS will make case-by-case determinations on the steps an Institution or an Investigator must take, consistent with the regulation, to provide a reasonable expectation that the design, conduct, and reporting of the research will be free from bias resulting from a Financial Conflict of Interest of the individual.

4. Applicability of Revised FCOI Regulation (Subrecipients)

The revised regulation is applicable to each Institution that applies for or receives PHS funding for research through grants or cooperative agreements and, through the implementation of the regulation by each Institution, to each Investigator planning to participate in, or participating in, such research. A subrecipient relationship is established when federal funds flow down from or through an awardee Institution to another individual or entity and the subrecipient will be conducting a substantive portion of the PHS-funded research project and is accountable to the awardee institution for programmatic outcomes and compliance matters. Accordingly, as a recipient of federal funds from an awardee Institution, the Financial Conflict of Interest regulation applies to subrecipients (e.g., subcontractors or consortium members). See 42 CFR 50.604 (c). The awardee Institution must determine if the Conflict of Interest policy of the awardee Institution or the Subrecipient will apply to the Subrecipient's investigator(s) and incorporate language into the written agreement that designates the applicable Conflict of Interest policy.

5. Organizational Structure/Designated Official

An Institution may administer its policy through whichever office or structure it chooses as long as the policy is applicable to all Investigators and the policy meets all requirements of the regulation. Each institution must designate official(s) to review all financial disclosures by Investigators and determine whether any Significant Financial Interest is related to a PHS-funded research and a Financial Conflict of Interests exists by making a reasonable determination that the Significant Financial Interest could be affected by the PHS-funded research or is in an entity whose financial interest could be affected by the research.

6. Required Training

Institutions are expected to develop and implement their Financial Conflict of Interest policies during the 365-day implementation period provided in the 2011 revised regulation. Once the Institution implements and posts their Financial Conflict of Interest policy as required under the final rule, Investigators are expected to then complete required training prior to engaging in PHS-supported research or by the issue date of the Notice of Award issued subsequent to the Institution's implementation date. NIH has issued a Conflict of Interest tutorial that can be incorporated into campus training programs, which can be accessed from the URL cited at the beginning of section I of the Guidelines. Each Investigator (as defined by the regulation), including subrecipient Investigator(s), must complete training prior to engaging in PHS-funded research and at least every four years, and immediately under specifically designated circumstances:

- a. Institutional Financial Conflict of Interest policies change in a manner that affects Investigator requirements
- b. An Investigator is new to an Institution
- c. An Institution finds that an Investigator is not in compliance with the Institution's Financial Conflict of Interest policy or management plan.

7. Disclosure

a. *Institutional responsibilities:*

1. Under the revised FCOI regulation, Significant Financial Interests that are subject to disclosure by an Investigator to an Institution are those that reasonably appear to be related to the Investigator's "Institutional responsibilities," as defined by the Institution. As a result, when read in conjunction with the revised Investigator disclosure requirements under 42 CFR 50.604, the revised Significant Financial Interest definition results in the disclosure by Investigators to Institutions of a wider array of interests on a more frequent basis. In addition to their own, Investigators are required to disclose the Significant Financial Interests of his/her spouse and dependent children.

b. *Monetary threshold:*

1. The Significant Financial Interest de minimis threshold is \$5,000 and, in some circumstances monetary thresholds for disclosure may be \$0.

2. The definition also differentiates between remuneration to the Investigator (and the Investigator's spouse and dependent children) from a publicly traded entity and remuneration from a non-publicly traded entity. With regard to a publicly traded entity, a monetary threshold of \$5,000 applies to the aggregated amount of any remuneration received from the entity in the twelve months preceding disclosure and the value of any equity interest as of the date of disclosure. With regard to a non-publicly traded entity, a Significant Financial Interest exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure, when aggregated, exceeds \$5,000, or when the Investigator (or the Investigator's spouse or dependent children) holds **any** equity interest (e.g., stock, stock option, or other ownership interest).

c. *Timing:*

1. The revised Significant Financial Interest definition applies to any remuneration received from an entity in the twelve months preceding the disclosure. Any Investigator who is planning to participate in PHS-funded research must disclose the Investigator's Significant Financial Interests no later than the time of application for PHS-funded research. In addition, each such investigator must submit an updated disclosure of Significant Financial Interests within thirty days of discovering or acquiring (such as through purchase, marriage, or inheritance) a new Significant Financial Interest.

d. *Reimbursed or Sponsored Travel:*

1. Investigators must disclose the occurrence of any reimbursed or sponsored travel (i.e., that which is paid on behalf of the Investigator and not reimbursed to the Investigator so that the exact monetary value may not be readily available), related to the Investigator's institutional responsibilities. However, the disclosure requirement does not apply to travel that is reimbursed or sponsored by the following:

- a. a federal, state, or local government agency,
- b. an Institution of higher education as defined at 20 U.S.C. 1001(a),
- c. an academic teaching hospital,

- d. a medical center, or
  - e. a research institute that is affiliated with an Institution of higher education.
- e. *Exclusions:*
- 1. The revised regulation modifies the types of interests that are specifically excluded from the Significant Financial Interest definition.  
The exclusions are:
    - a. salary, royalties, or other remuneration paid by the Institution to the Investigator if the Investigator is currently employed or otherwise appointed by the Institution;
    - b. intellectual property rights assigned to the Institution and agreements to share in royalties related to such rights
    - c. any ownership interests in the Institution held by the Investigator, if the Institution is a commercial or for-profit organization
    - d. income from investment vehicles, such as mutual funds and retirement accounts, as long as the Investigator does not directly control the investment decisions made in these vehicles;
    - e. income from seminars, lectures, or teaching engagements sponsored by a federal, state, or local government agency, an Institution of higher education as defined in 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education;
    - f. income from service on advisory committees or review panels for a federal, state, or local government agency, or an Institution of higher education as defined at 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education.
- f. *Paid Authorships:*
- 1. Paid authorships are considered payment for services under the revised regulations and must be disclosed.

8. Consequences of Investigator Non-Compliance

- a. When an Investigator fails to comply with the Institution's Financial Conflict of Interest policy or the management plan, the Institution shall within 120 days:
  - 1. complete a retrospective review of the Investigator's activities and the PHS-funded research project to determine any bias in the design, conduct or reporting of research;
  - 2. document the retrospective review consistent with the regulation; and
  - 3. document the Institution's determination as to whether any PHS-funded research, or portion thereof, conducted during the period of time of the Investigator's non-compliance with the Institution's Financial Conflict of Interest policy or a Financial Conflict of Interest management plan, was biased in the design, conduct, or reporting of such research.
  - 4. If bias is found, the Institution shall notify the PHS promptly and submit a mitigation report to the PHS that shall address the following:
    - a. impact of the bias on the research project and

b. the Institution's plan of action or actions taken to eliminate or mitigate the effect of the bias.

5. Thereafter, the Institution shall submit FCOI reports annually, in accordance with the regulation. Depending on the nature of the Financial Conflict of Interest, an Institution may determine that additional interim measures are necessary with regard to the Investigator's participation in the PHS-funded research project between the date that the Financial Conflict of Interest is identified and the completion of the Institution's independent retrospective review, in accordance with 42 CFR 50.605(a)(3) and 42 CFR 50.605(b)(3).

9. Clinical Research to Evaluate the Safety or Effectiveness of Drug, Medical Device or Treatment

The revised regulations contain special provisions for Clinical Research. If the HHS determines that an PHS-funded project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment has been designed, conducted, or reported by an Investigator with a conflicting interest that was not managed or reported by the Institution as required by the regulation, the Institution must require the Investigator(s) involved to disclose the Financial Conflict of Interest in each public presentation of the results of the research and to request an addendum to previously published presentations. Institution's Financial Conflict of Interest policy may have additional requirements.

10. Institutional Reporting of Identified Financial Conflicts of Interest to PHS

Prior to the institution's expenditure of any funds under a PHS-funded research project, the institution shall provide to the PHS awarding component any Investigator's significant financial interest found by the Institution to be conflicting and ensure that the institution has implemented a management plan in accordance with the revised regulations. Further, the Institution will provide annual FCOI reports for the duration of the project period. Any FCOI report required under the revised regulations shall include, at a minimum, the following information:

- a. PHS-Funded Research Project Number
- b. Name of the Principal Investigator
- c. Name of the Investigator with the financial conflict of interest
- d. Name of the entity with which the Investigator has a financial conflict of interest
- e. Nature of the financial interest
- f. Value of the financial interest, or a statement if the interest is one whose value cannot be readily determined through to public prices or other reasonable measures of fair market value
- g. Description of how the financial interest relates to the PHS-funded research and the basis for the Institution's determination that the financial interest conflicts with the research
- h. Description of key elements of the Institution's management plan, including:
  1. Role and principal duties of the conflicted Investigator in the research project
  2. Conditions of the management plan
  3. How the management plan is designed to safeguard objectivity in the research project

4. Confirmation of the Investigator's agreement to the management plan
5. How the management plan will be monitored
6. Other information as needed

11. Public Accessibility of Identified Financial Conflicts of Interest

Prior to the expenditure of PHS funds on or after August 24, 2012, the institution must ensure public accessibility (via publically-available website or response to written request within five (5) business days of the request) of information concerning significant financial interests disclosed to the institution that are:

- a. Previously disclosed and currently held by Investigators or Senior/Key Personnel;
- b. The significant financial interest is related to PHS-funded research; and
- c. The institution has determined the significant financial interest is a financial conflict of interest

The information the Institution must make publically-available must be updated at least annually, must be maintained for a period of three years from the last update, and must include the following data elements at a minimum:

1. Investigator Name
2. Investigator Title
3. Investigator role with respect to the research project
4. Name of the entity in which the significant financial interest is held
5. Nature of the significant financial interest
6. Approximate dollar value of the significant financial interest, or a statement if the interest is one whose value cannot be readily determined through to public prices or other reasonable measures of fair market value.

**B. Definitions**

See the notice announcing the availability of new Frequently Asked Questions (FAQs) related to the 2011 revised regulations for a list of definitions at <http://grants.nih.gov/grants/policy/coi/>. Following are some key definitions:

1. *Senior/Key Personnel* means the Project Director/Principal Investigator (PD/PI) and any other person *identified* as senior/key personnel by the Institution in the grant application, progress report, or any other report submitted to the PHS by the Institution under the regulation.
2. *Investigator* means the project director or principal investigator and any other person, regardless of title or position, who is responsible for the design, conduct, or reporting of research funded by the PHS (e.g., NIH), or proposed for such funding, which may include, for example, collaborators or consultants. Institutions should consider the role, rather than the title, of those involved in research and the degree of independence with which those individuals work. When the definition of investigator is limited to titles or designations (e.g., to principal investigators, key personnel, faculty) the risk increases that an unidentified FCOI may comprise the research.
3. *Institutional responsibilities* are defined by the 2011 revised regulation as an Investigator's professional responsibilities on behalf of the Institution, and as defined by

the Institution in its policy on Financial Conflict of Interest, which may include, for example, activities such as research, research consultation, teaching, professional practice, Institutional committee memberships, and service on panels such as Institutional Review Boards or Data and Safety Monitoring Boards. The Institution can include other professional responsibilities within the definition, as appropriate.

4. A *Financial Conflict of Interest* exists when the Institution, through its designated official(s), reasonably determines that an Investigator's Significant Financial Interest is related to a PHS-funded research project and could directly and significantly affect the design, conduct or reporting of the PHS-funded research.

5. *Significant Financial Interest* is defined as follows:

a. A financial interest consisting of one or more of the following interests of the Investigator (and those of the Investigator's spouse and dependent children) that reasonably appears to be related to the Investigator's institutional responsibilities:

1. With regard to any publicly traded entity, a *significant financial interest* exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure and the value of any equity interest in the entity as of the date of disclosure, when aggregated, exceeds \$5,000. For purposes of this definition, remuneration includes salary and any payment for services not otherwise identified as salary (e.g., consulting fees, honoraria, paid authorship); equity interest includes any stock, stock option, or other ownership interest, as determined through reference to public prices or other reasonable measures of fair market value;

2. With regard to any non-publicly traded entity, a *significant financial interest* exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure, when aggregated, exceeds \$5,000, or when the Investigator (or the Investigator's spouse or dependent children) holds any equity interest (e.g., stock, stock option, or other ownership interest); or

3. Intellectual property rights and interests (e.g., patents, copyrights), upon receipt of income related to such rights and interests.

b. Investigators also must disclose the occurrence of any reimbursed or sponsored travel (i.e., that which is paid on behalf of the Investigator and not reimbursed to the Investigator so that the exact monetary value may not be readily available). See Section II, A, 6, (4) above.

c. The term *significant financial interest* does not include the following types of financial interests: salary, royalties, or other remuneration paid by the Institution to the Investigator if the Investigator is currently employed or otherwise appointed by the Institution, including intellectual property rights assigned to the Institution and agreements to share in royalties related to such rights; any ownership interest in the Institution held by the Investigator, if the Institution is a commercial or for-profit organization; income from investment vehicles, such as mutual funds and retirement accounts, as long as the Investigator does not directly control the investment decisions made in these vehicles; income from seminars, lectures, or teaching engagements sponsored by a federal, state, or local government agency, an Institution of higher education as defined at 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an Institution of higher education; or income from service on advisory committees or review panels for a federal, state, or local government agency, an Institution of higher education as defined at 20

U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an Institution of higher education.”

**C. National Science Foundation**

The full regulatory citation for the National Science Foundation is located at the following URL: [http://www.nsf.gov/pubs/manuals/gpm05\\_131/gpm5.jsp#510](http://www.nsf.gov/pubs/manuals/gpm05_131/gpm5.jsp#510)

1. NSF requires each grantee institution employing more than fifty persons to maintain an appropriate written and enforced policy on conflict of interest. Guidance for such policies has been issued by university associations and scientific societies.

2. An institutional conflict of interest policy should require that each investigator disclose to a responsible representative of the institution all significant financial interests of the investigator (including those of the investigator's spouse and dependent children) (i) that would reasonably appear to be affected by the research or educational activities funded or proposed for funding by NSF; or (ii) in entities whose financial interests would reasonably appear to be affected by such activities.

3. The term “investigator” means the principal investigator, co-principal investigators, and any other person at the institution who is responsible for the design, conduct, or reporting of research or educational activities funded or proposed for funding by NSF.

4. The term “significant financial interest” means anything of monetary value, including, but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interest (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights).

The term does not include:

- a. salary, royalties or other remuneration from the applicant institution;
- b. any ownership interests in the institution, if the institution is an applicant under the Small Business Innovation Research Program or Small Business Technology Transfer Program;
- c. income from seminars, lectures, or teaching engagements sponsored by public or non-profit entities;
- d. income from service on advisory committees or review panels for public or nonprofit entities;
- e. an equity interest that, when aggregated for the investigator and the investigator's spouse and dependent children, meets both of the following tests: does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a 5% ownership interest in any single entity; or
- f. salary, royalties or other payments that, when aggregated for the investigator and the investigator's spouse and dependent children, are not expected to exceed \$10,000 during the twelve month period.

5. An institutional policy must ensure that investigators have provided all required financial disclosures at the time the proposal is submitted to NSF. It must also require that those financial disclosures are updated during the period of the award, either on an annual basis, or as new reportable significant financial interests are obtained.

6. An institutional policy must designate one or more persons to review financial disclosures, determine whether a conflict of interest exists, and determine what conditions or restrictions, if any, should be imposed by the institution to manage, reduce or eliminate such conflict of interest. A conflict of interest exists when the reviewer(s)

reasonably determines that a significant financial interest could directly and significantly affect the design, conduct, or reporting of NSF-funded research or educational activities.

7. Examples of conditions or restrictions that might be imposed to manage, reduce or eliminate conflicts of interest include, but are not limited to:

- a. public disclosure of significant financial interests;
- b. monitoring of research by independent reviewers;
- c. modification of the research plan;
- d. disqualification from participation in the portion of the NSF-funded research that would be affected by significant financial interests;
- e. divestiture of significant financial interests; or
- f. severance of relationships that create conflicts.

8. If the reviewer(s) determines that imposing conditions or restrictions would be either ineffective or inequitable, and that the potential negative impacts that may arise from a significant financial interest are outweighed by interests of scientific progress, technology transfer, or the public health and welfare, then the reviewer(s) may allow the research to go forward without imposing such conditions or restrictions.

- a. The institutional policy must include adequate enforcement mechanisms, and provide for sanctions where appropriate.
- b. The institutional policy must include arrangements for keeping NSF's Office of the General Counsel appropriately informed if the institution finds that it is unable to satisfactorily manage a conflict of interest.
- c. Institutions must maintain records of all financial disclosures and of all actions taken to resolve conflicts of interest for at least three years beyond the termination or completion of the grant to which they relate, or until the resolution of any NSF action involving those records, whichever is longer.

**D. North Carolina General Statute 183A “State Government Ethics Act”**

The purpose of the “State Government Ethics Act” is to ensure that elected and appointed State agency officials exercise their authority honestly and fairly, free from impropriety, threats, favoritism, and undue influence. To this end, it is the intent of the General Assembly in this Chapter to ensure that standards of ethical conduct and standards regarding conflicts of interest are clearly established for elected and appointed State agency officials, that the State continually educates these officials on matters of ethical conduct and conflicts of interest, that potential and actual conflicts of interests are identified and resolved, and that violations of standards of ethical conduct and conflicts of interest are investigated and properly addressed. (2006-201, s. 1.)

The full general status is located at the following URL:

[http://www.ncga.state.nc.us/enactedlegislation/statutes/html/bychapter/chapter\\_138a.html](http://www.ncga.state.nc.us/enactedlegislation/statutes/html/bychapter/chapter_138a.html)

**E. North Carolina General Statute 14-234 “Public Officers or Employees Benefiting from Public Contracts”**

The purpose of the Public Officers or Employees Benefiting from Public Contracts statute is to ensure the making and administering of public contracts is free of bias, in appropriate influence, conflict of interest and does not result in personal benefit to the public officer or employee.

The full general status is located at the following URL:

[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_14/GS\\_14-234.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-234.html)

## **Regulations on External Professional Activities for Pay by Faculty and Non-Faculty EPA Employees**

In accordance with the Board of Governors' policy on Conflict of Interest and Commitment (*UNC Policy Manual*, 300.2.2), UNC faculty and non-faculty EPA employees sometimes may engage in compensated activities that are not a part of University employment. Through such opportunities, employees apply their specialized knowledge and experience to activities outside of their University employment, thereby enhancing their own capabilities in teaching and research and contributing significant societal benefits, including economic development through technology transfer. These activities are encouraged if the intended activity complies with Section II of the corresponding policy 300.2.2, and do not create a conflict of interest (see definitions, *UNC Policy Manual*, 300.2.2, Section I).

An EPA employee who wishes to engage in external professional activity for pay must adhere to these regulations to provide satisfactory assurances that such activity will not interfere with University employment obligations.

### **I. Regulations**

A. Any EPA employee who plans to engage in external professional activity for pay shall complete the "Notice of Intent to Engage in External Professional Activity for Pay" (hereinafter referred to as "Notice of Intent," which shall solicit, at a minimum, the data elements shown in Appendix I), which shall be filed with the head of the department in which the individual is employed. A separate "Notice of Intent" shall be filed for each such activity in which an employee proposes to engage. Unless there are exceptional circumstances, the "Notice of Intent" shall be filed not less than ten (10) calendar days before the date the proposed external professional activity for pay is to begin. Additionally, Covered Employees will disclose their financial interests consistent with the Board of Governors' policy on Conflict of Interest and Commitment, *UNC Policy Manual*, 300.2.2 and the Constituent Institution implementing policies and procedures.

B. Approval of a "Notice of Intent" may be granted for a period not to exceed the balance of either 1) the fiscal year (in the case of 12-month employees and employees with contract service periods that include the summer session) or 2) the academic year (in the case of 9-month employees with no summer session contract period) remaining as of the date of approval; if the approved activity will continue beyond the end of the relevant fiscal or academic year in which it was begun, an additional "Notice of Intent" must be filed at least ten (10) days before engaging in such activity in the succeeding relevant year.

C. Except as set out in paragraph D below, the "Notice of Intent" shall be considered as follows: If, after a review of the "Notice of Intent" and consultation with the EPA employee, the department head (or appropriate administrator, see definition *UNC Policy Manual*, 300.2.2, Section I, Item G) determines that the proposed activity is not consistent with the policy statements of the institution or Board of Governors, the EPA employee shall be notified of that determination within ten (10) calendar days of the date the "Notice of Intent" is filed. In the event of such notification by the department head, the EPA employee shall not proceed with the proposed activity but may appeal that decision to the administrative officer to whom the department chair reports, and then to the chancellor or the chancellor's designee (or, in General Administration, to the President). A decision on any such appeal shall be given to the EPA employee within ten (10) calendar days of the date on which the appeal is received. The decision of the chancellor (or of the President) shall be final. Appeals shall be made in writing.

D. If the "Notice of Intent" discloses 1) a proposed activity for an entity that provides funding that directly supports the EPA employees' University Employment Responsibilities or activities or 2) a proposed activity for a private entity in which the EPA employee or member of the EPA employee's immediate family holds an equity or ownership interest or holds an office, the procedure set out in item C above shall be modified as follows: The decision of the department head to approve the activity shall be reviewed promptly and approved or disapproved within ten (10) days of receipt by the administrative officer to whom the department head reports, and appeal of a disapproval by that officer shall be to the chancellor or the chancellor's designee (or, in General Administration, to the President).

E. Departmental summaries of all "Notices of Intent" filed and of actions taken in response to such "Notices of Intent" during the preceding fiscal year shall be submitted by department heads to the chancellor or the chancellor's designee (or, in General Administration, to the President) each July. On or before September 1 of each year, the UNC General Administration, Office of Research and Sponsored Programs, will initiate the submission of annual summary reports from the chancellors to the President.

F. External professional activities for pay performed for another institution or agency of the State of North Carolina also must comply with State policies governing dual employment and compensation, unless an exception to those State policies is expressly authorized by the chancellor or the President.

G. In addition, senior academic and administrative officers may be subject to special regulations regarding honoraria. Please refer to the *UNC Policy Manual*, 300.2.2.2 [R].

H. University employees not complying with these procedures will be subject to disciplinary action.

## II. Special Provision

These regulations shall not be required of EPA employees serving on academic year contracts, if the external professional activity for pay is wholly performed and completed outside of the academic year, provided that the activity does not conflict with the policy statements of the institution or Board of Governors and is not conducted concurrently with a contract service period for teaching, research, or other services to the institution during a summer session. Notwithstanding this policy, *UNC Policy Manual*, 300.2.2.1[R], Covered Employees will disclose their financial interests in accordance with the Board of Governors' policy on Conflict of Interest and Conflict of Commitment *UNC Policy Manual* 300.2.2 and the implementing policies and procedures of the Constituent Institutions

Appendix I<sup>1</sup>

**Notice of Intent to Engage in External Professional Activities for Pay Data Elements**

- I. Date of filing
- II. Name of EPA employee
- III. Name and address of contracting organization
- IV. Nature of proposed activity
- V. Beginning date and anticipated duration of activity
- VI. Average number of hours per week to be devoted to the activity
  - A. *For 12-month employees, for the anticipated duration of the activity, within the current fiscal year ending June 30 \_\_\_\_\_*
  - B. *For 9-month employees, for each component part of the academic year, as applicable, within the current fiscal year ending June 30 \_\_\_\_\_*
    1. Second Summer Session (post July 1)
    2. Fall Semester
    3. Spring Semester
    4. First Summer Session (pre-July 1)
- VII. Total number of hours to be devoted to the activity
- VIII. Identification of classes, meetings or other university duties that will be missed because of involvement in the proposed activity (identify the duties that will be missed based on the components of the academic year shown above, if 9-month employee) and identification of what arrangements have been made to cover such duties.
- IX. Identification of any university resources to be used for the activity
- X. Determination if the contracting organization listed in the Notice of Intent is providing funding which directly supports the EPA employee's university duties
- XI. Determination if the contracting organization is a private firm
  - A. *If yes, determination if the EPA employee or member of his/her immediate family own an equity interest in the contracting organization*
  - B. *Determination if the EPA employee holds an office in the contracting organization*
- XII. Certifying statement by EPA employee that information disclosed on the "Notice of Intent" is consistent with the Board of Governor's Policy on Conflict of Interest and Commitment (300.2.2)

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<sup>1</sup>[This Appendix I 300.2.2.1[R] replaced the preceding Appendix I entitled, "Notice of Intent to Engage in External Professional Activities for Pay," adopted August 12, 2005.]

## Regulations on External Professional Activities for Pay by Faculty and Non-Faculty EPA Employees

In accordance with the Board of Governors' policy on Conflicts of Interest and Commitment ~~Affecting Faculty and Non-Faculty EPA Employees~~ (*UNC Policy Manual*, 300.2.2), UNC faculty and non-faculty EPA employees sometimes may engage in compensated activities that are not a part of University employment. Through such opportunities, employees apply their specialized knowledge and experience to activities outside of their University employment, thereby enhancing their own capabilities in teaching and research and contributing significant societal benefits, including economic development through technology transfer. These activities are encouraged if the intended activity complies with Section II, ~~A~~ of the corresponding policy 300.2.2, and do not create a conflict of interest (see definitions, *UNC Policy Manual*, 300.2.2, Section I).

An EPA employee who wishes to engage in external professional activity for pay must adhere to these regulations to provide satisfactory assurances that such activity will not interfere with University employment obligations.

### I. Regulations

A. Any EPA employee who plans to engage in external professional activity for pay shall complete the "Notice of Intent to Engage in External Professional Activity for Pay" (hereinafter referred to as "Notice of Intent," which shall solicit, at a minimum, the data elements shown in see-Appendix 1), which shall be filed with the head of the department in which the individual is employed. A separate "Notice of Intent" shall be filed for each such activity in which an employee proposes to engage. Unless there are exceptional circumstances, the "Notice of Intent" shall be filed not less than ten (10) calendar days before the date the proposed external professional activity for pay is to begin. Additionally, Covered Employees will disclose their financial interests consistent with the Board of Governors' policy on Conflict of Interest and Commitment, UNC Policy Manual, 300.2.2 and the Constituent Institution implementing policies and procedures.

B. Approval of a "Notice of Intent" may be granted for a period not to exceed the balance of either 1) the fiscal year (in the case of 12-month employees and employees with contract service periods that include the summer session) or 2) the academic year (in the case of 9-month employees with no summer session contract period) remaining as of the date of approval; if the approved activity will continue beyond the end of the relevant fiscal or academic year in which it was begun, an additional "Notice of Intent" must be filed at least ten (10) days before engaging in such activity in the succeeding relevant year.

C. Except as set out in paragraph D below, the "Notice of Intent" shall be considered as follows: If, after a review of the "Notice of Intent" and consultation with the EPA employee, the department head (or appropriate administrator, see definition *UNC Policy Manual*, 300.2.2, Section I, Item **FG**) determines that the proposed activity is not consistent with the policy statements of the institution or Board of Governors, the ~~faculty or other professional staff member~~ EPA employee shall be notified of that determination within ten (10) calendar days of the date the "Notice of Intent" is filed. In the event of such notification by the department head, the EPA employee shall not proceed with the proposed activity but may appeal that decision to the administrative officer to whom the department chair reports, and then to the chancellor or the chancellor's designee (or, in ~~the Office of the President~~ General Administration, to the President). A decision on any such appeal shall be given to the EPA employee within ten (10) calendar days of the date on which the appeal is received. The decision of the chancellor (or of the President) shall be final. Appeals shall be made in writing.

D. ~~If question 8, question 9a, or question 9b on the "Notice of Intent" is answered in the affirmative, the procedure set out in paragraph 3 above shall be modified as follows: If the~~

“Notice of Intent” discloses 1) a proposed activity for an entity that provides funding that directly supports the EPA employees’ University Employment Responsibilities or activities or 2) a proposed activity for a private entity in which the EPA employee or member of the EPA employee’s immediate family holds an equity or ownership interest or holds an office, the procedure set out in item C above shall be modified as follows: The decision of the department head to approve the activity shall be reviewed promptly and approved or disapproved within ten (10) days of receipt by the administrative officer to whom the department head reports, and appeal of a disapproval by that officer shall be to the chancellor or the chancellor’s designee (or, in ~~the Office of the President~~General Administration, to the President).

E. Departmental summaries of all "Notices of Intent" filed and of actions taken in response to such "Notices of Intent" during the preceding fiscal year shall be submitted by department heads to the chancellor or the chancellor's designee (or, in ~~the Office of the President~~General Administration, to the President) each July. On or before September 1 of each year, the UNC ~~Office of the President~~General Administration, Office of Research and Sponsored Programs, will initiate the submission of annual summary reports from the chancellors to the President.

F. External professional activities for pay performed for another institution or agency of the State of North Carolina also must comply with State policies governing dual employment and compensation, unless an exception to those State policies is expressly authorized by the chancellor or the President.

G. In addition, senior academic and administrative officers may be subject to special regulations regarding honoraria. Please refer to the *UNC Policy Manual*, 300.2.2.2 [R].

H. University employees not complying with these procedures will be subject to disciplinary action.

## II. Special Provision

These regulations shall not be required of EPA employees serving on academic year contracts, if the external professional activity for pay is wholly performed and completed outside of the academic year, provided that the activity does not conflict with the policy statements of the institution or Board of Governors and is not conducted concurrently with a contract service period for teaching, research, or other services to the institution during a summer session. Notwithstanding this policy, *UNC Policy Manual*, 300.2.2.1[R], Covered Employees will disclose their financial interests in accordance with the Board of Governors’ policy on Conflict of Interest and Conflict of Commitment *UNC Policy Manual* 300.2.2 and the implementing policies and procedures of the Constituent Institutions

**APPENDIX I**  
**NOTICE OF INTENT TO ENGAGE IN EXTERNAL PROFESSIONAL ACTIVITIES FOR PAY**

Date: \_\_\_\_\_

\_\_\_\_\_ (name) intends to engage in external professional activity for pay under the following conditions:

1. ~~Name and address of contracting organization:~~

\_\_\_\_\_  
\_\_\_\_\_

2. ~~Nature of proposed activity:~~

\_\_\_\_\_  
\_\_\_\_\_

3. ~~Beginning date and anticipated duration of activity:~~

\_\_\_\_\_  
\_\_\_\_\_

4. ~~On average, how many hours per week will be devoted to this activity?~~

a. ~~For 12-month employees, for the anticipated duration of the activity, within the current fiscal year ending June 30:~~

b. ~~For 9-month employees, for each component part of the academic year, as applicable, within the current fiscal year ending June 30 (see above paragraph 2):~~

(1) ~~Second summer session (post July 1)~~ \_\_\_\_\_

(2) ~~Fall semester~~ \_\_\_\_\_

(3) ~~Spring semester~~ \_\_\_\_\_

(4) ~~First summer session (pre July 1)~~ \_\_\_\_\_

5. ~~Total number of hours to be devoted to activity:~~ \_\_\_\_\_

6. ~~Identify any classes, meetings or other University duties that will be missed because of involvement in the proposed activity (respond separately for each applicable component part of the academic calendar if 9-month employee) and state what arrangements have been made to cover any such duties:~~

Duties Missed \_\_\_\_\_ Arrangements to Cover \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. ~~Use of University resources in connection with proposed activity:~~

~~a. Will the activity entail the use of any University resources (see *UNC Policy Manual*, 300.2.2, Section I, Item G)?  
( ) Yes ( ) No~~

~~b. If yes, describe what resources will be used.~~  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

~~8. To your knowledge, does the contracting organization above provide funding which directly supports any of your University duties or activities?  
( ) Yes ( ) No~~

~~9. To be completed if the contracting organization is a private firm:~~

~~a. Do you or any member of your immediate family own an equity interest in the contracting organization?  
( ) Yes ( ) No~~

~~b. Do you hold an office in the contracting organization?  
( ) Yes ( ) No~~

~~10. Performance of the above described activity is consistent with the Board of Governors Policy on conflicts of interest and commitment and external professional activities (300.2.2).~~

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Department

\_\_\_\_\_  
Academic Rank or Job Title

\_\_\_\_\_  
Administrative Title (if any)

\_\_\_\_\_  
Signature Department Head (or supervisor)

**ADMINISTRATIVE ACTION ON NOTICE OF INTENT**

~~1. Reviewed; activity determined to be consistent with University policy.~~

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
Date \_\_\_\_\_ Department Head

~~Other action (as required):~~

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
Date \_\_\_\_\_ Dean or Other Administrative Officer\*

~~\* Approval by Dean or other administrative officer to whom Department Head reports is required if question 8 or question 9a or 9b is answered in the affirmative.~~

~~2. Reviewed; activity determined not to be consistent with University policy.~~

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
Date \_\_\_\_\_ Department Head

~~Action on appeal (if any):~~

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
Date \_\_\_\_\_ Action taken

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
Dean or Other Administrative Officer

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
Date \_\_\_\_\_ Action taken

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
Chancellor

~~Any administrative action approving a "Notice of Intent" shall be effective only for the remaining balance of the fiscal year (in the case of 12-month employees) or for the balance of the academic year (for 9-month employees); see above paragraph 2. Appendix I~~

~~Notice of Intent to Engage in External Professional Activities for Pay Data Elements~~

- I. Date of filing
- II. Name of EPA employee
- III. Name and address of contracting organization
- IV. Nature of proposed activity
- V. Beginning date and anticipated duration of activity
- VI. Average number of hours per week to be devoted to the activity

A. For 12-month employees, for the anticipated duration of the activity, within the current fiscal year ending June 30

B. For 9-month employees, for each component part of the academic year, as applicable, within the current fiscal year ending June 30

1. Second Summer Session (post July 1)
2. Fall Semester
3. Spring Semester
4. First Summer Session (pre-July 1)

VII. Total number of hours to be devoted to the activity

VIII. Identification of classes, meetings or other university duties that will be missed because of involvement in the proposed activity (identify the duties that will be missed based on the components of the academic year shown above, if 9-month employee) and identification of what arrangements have been made to cover such duties.

IX. Identification of any university resources to be used for the activity

X. Determination if the contracting organization listed in the Notice of Intent is providing funding which directly supports the EPA employee's university duties

XI. Determination if the contracting organization is a private firm

A. If yes, determination if the EPA employee or member of his/her immediate family own an equity interest in the contracting organization

B. Determination if the EPA employee holds an office in the contracting organization

XII. Certifying statement by EPA employee that information disclosed on the "Notice of Intent" is consistent with the Board of Governor's Policy on Conflicts of Interest and Commitment and External Professional Activities for Pay (300.2.2)

[Appendix I 300.2.2.1[R] Replaced]

### **Regulations for Senior Academic and Administrative Officers on External Professional Activities for Pay and Honoraria**

In accordance with the Board of Governors' policy on Conflict of Interest and Commitment (*UNC Policy Manual*, 300.2.2), University personnel sometimes may engage in compensated activities that are not a part of University employment. For example, some sit on boards of directors of various private corporations, pursue opportunities that fall within the Board of Governor's definition of external professional consulting, or conduct official duties as a State employee for which an honorarium is received. In those instances when a Senior Academic and Administrative Officer (SAAO) engages in these types of activities, the following shall apply:

#### **1. Pursuit of Private Interests in Which Activities are Compensated**

For Senior Academic and Administrative Officers (SAAOs) who pursue activities for pay that are not a part of their University employment, it is important that overlapping compensation be avoided. If an SAAO engages in an activity from which external income is earned, that is not a part of their University employment, annual leave must be used if such activities take place within the conventional work week (i.e., between 8:00 a.m. and 5:00 p.m., Monday through Friday) SAAOs must also file appropriate disclosures of financial interests and "Notices of Intent," in accordance with Board of Governors' policies and Constituent Institution implementing policies and procedures to provide satisfactory assurances that such activity will not interfere with University employment obligations (please refer to *UNC Policy Manual*, 300.2.2 and 300.2.2.1[R] for requirements and procedures related to reporting).

#### **2. Activities for Which an Honorarium is Received**

Senior academic and administrative officers may engage in employment-related activities for which an honorarium is received. 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 employee shall not receive 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 during non-working hours or while the employee is on annual 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.

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