

## **4.16 Policies Governing Outside Employment, Conflicts of Interest, External Professional Activities, and Dual Employment with Other State Agencies**

### **A. Conflicts of Interest**

Conflicts of interest should be avoided in all instances of outside employment. Conflict of interest in an academic institution includes, but is not limited to, outside activity which intrudes upon the academic functions of teaching, scholarly activities, and service to the institution; the favoring of outside interests above those of the university and inequities to the university in the distribution of time and effort. Regarding conflicts of interest in relation to government-sponsored research, Western Carolina University has adopted the Joint American Council on Education and American Association of University Professors policy statement “On Preventing Conflicts of Interest in Government-Sponsored Research at Universities”. Copies of the statement are available in the Office of Research and Graduate Studies.

### **B. External Professional Activities for Pay and Outside Employment**

“Outside employment” includes professional or other work of a continuous nature such as supervising, consulting, or advisory services, and specific work, usually of a limited duration for which compensation is received. Except as limited by Board of Governors’ policy, below, outside employment does not include honoraria for lectures or for literary articles, private income from real estate or investments, royalties from books and patents, or to activities productive thereof. Extramural activities include outside employment and other activities which are of a voluntary nature and for which compensation is not received. Assigned extension teaching for WCU whether inload or overload is not considered outside employment.

On November 9, 1979, the Board of Governors of the University of North Carolina adopted the following policy statement on external professional activities of faculty and other professional staff which establishes definitions and procedures to be followed in carrying out the policy.

#### **1. University Policy on Professional Affiliations and Public Service**

The University of North Carolina and its constituent institutions seek to appoint and to retain, as faculty and other professional staff members, individuals of exceptional competence in their respective fields of professional endeavor. Because of their specialized knowledge and experience, such persons have opportunities to apply their professional expertise to activities outside of their university employment, including secondary employment consisting of paid consultation with or other service to various public and private entities. Through such practical, compensated applications of their professional qualifications, university employees

enhance their own capabilities in teaching and research. Thus participation of faculty and other professional staff members 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, such external professional activities for pay are to be undertaken only if they do not:

- a. Create a conflict of commitment by interfering with the obligation of the individual to carry out all primary university duties in a timely and effective manner; or
- b. Create a conflict of interest vis-a-vis the individual's status as an employee of the university; or
- c. Involve any inappropriate use or exploitation of university resources; or
- d. Make any use of the name of the University of North Carolina or any of its constituent institutions for any purpose other than professional identification; or
- e. Claim, explicitly or implicitly, any university or institutional responsibility for the conduct or outcome of such activities.

## 2. Definitions

- a. "External professional activities for pay" means any activity that (1) is not included within one's university employment responsibilities; 2) is performed for an 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 faculty or other professional staff member. Activities for pay not involving such professional knowledge, experience and abilities are not subject to the advance disclosure and approval requirements of Section 3 of this Policy, although they are subject to the basic requirement that outside activities of any type not result in neglect of primary university duties, conflicts of interest, inappropriate uses of the university name, or claims of university responsibility for the activity.
- b. "University employment responsibilities" include both "primary duties" and "secondary duties." Primary duties consist of assigned teaching, scholarship, and all other institutional service requirements. Secondary duties consist of professional

affiliations and activities traditionally undertaken by faculty and other professional staff members outside of the immediate university employment context that redound to the benefit of the profession and to higher education in general. Such endeavors, which may or may not entail the receipt of honoraria or the reimbursement of expenses, include membership in and service to professional associations and learned societies; membership on professional review or advisory panels; presentation of lectures, papers, concerts or exhibits; participation in seminars and conferences; reviewing or editing scholarly publications and books; and service to accreditation bodies. Such integral manifestations of one's membership in a profession are encouraged, as extensions of university employment, so long as they do not conflict or interfere with the timely and effective performance of the individual's primary university duties.

- c. "Faculty or other professional staff member" means any person who is employed full-time by the University of North Carolina or a constituent institution or other agency or unit of the University of North Carolina and who is not subject to the State Personnel Act.
- d. "Department" means an academic department, a professional college without formally established departments, or any other administrative unit designated by the chancellor of an institution or by the president for the Office of General Administration, for the purposes of implementing this policy.
- e. "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. A person engaged in external professional activities for pay may use, in that connection, his or her office and publicly accessible facilities such as university libraries; however, an office shall not be used as the site for compensated appointments with clients, e.g., for counseling or instruction. Under no circumstances may a supervisory employee use the services of a supervised employee during university employment time to advance the supervisor's external professional activities for pay.
- f. "Conflict of interest" relates to situations in which financial or other personal considerations may compromise, may have the potential for compromising, or may have the appearance of

compromising an employee's objectivity in meeting university duties or responsibilities, including research activities.

3. Procedures Governing External Professional Activity for Pay

- a. A faculty or other professional staff member 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", Attachment A), 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.
- 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 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 faculty or other professional staff member, the department head determines that the proposed activity is not consistent with this policy statement of the Board of Governors, the faculty or other professional staff member 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 faculty or other professional staff member shall not proceed with the proposed activity but may appeal that decision to the administrative officer to whom the department head reports, and then to the chancellor (or, in the General Administration, to the president). A decision on any such appeal shall be given to the faculty or other professional staff member 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 on the "Notice of Intent" form.

- 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 3c 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, in the 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, in the General Administration, to the president) each July. The chancellors shall provide annual summary reports to the president by September 1 of each year.
- f. University employees not complying with these procedures will be subject to disciplinary action. Department heads are held responsible for proper reporting.

#### 4) Special Provisions

- a. 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.
- b. The procedures in Section 3 shall not be required of faculty and other professional staff members serving on academic year contracts, if the external professional activity for pay is wholly performed and completed between the day following spring commencement and the first day of classes for the fall semester, provided that the activity does not conflict with this policy statement of the 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.

#### 5. Effective Date

This policy statement shall become effective on July 1, 1993.

Western Carolina University

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

*Approval is requested to pursue the described professional activity external to Western Carolina University for compensation during the 20\_\_\_\_ - 20\_\_\_\_ academic year.*

1) Name of person making request		
Unit (department) of person making request		
2) Organization requesting professional activity		
Location of organization		
3) Description of activity to be performed		
4) When does the activity begin and end?		
What WCU responsibilities will be missed?		
How will these responsibilities be fulfilled?		
5) Does the organization provide funding which directly supports any of your duties at WCU?	Ye s	N o
6) Is the organization a private firm?	Ye s	N o
a) Do you or any member of your immediate family own an equity interest in the organization?	Ye s	N o
b) Do you hold an office in this private firm?	Ye s	N o
Signature of person making request	Date	
Signature of Level 1 head	Date	
Signature of Level 2 head (if necessary)	Date	
<p><b><i>If any answer to questions 5 or 6 above is YES, you may need to file an updated conflict-of-interest form.</i></b></p> <p>The reviewing official will retain one copy of this form. A second copy is to be provided to the person filing this form. The original copy is to be provided to the custodian of the employee's official personnel file for retention.</p> <p>If the activity is not approved, the original form is to be returned to the person making the request.</p>		

**ACTIVITY DURING PAST FISCAL YEAR**

Provide the following information for each External Professional Activity for Pay in which you engaged during the last fiscal year preceding the date of filing of this "Notice of Intent."

1. Contracting organization:

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2. Beginning and ending date of activity (if completed):

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3. Average hours per week devoted to this activity:

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4. Total number of hours devoted to this activity: \_\_\_\_\_

5. Nature of Professional Activity:

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6. Date Notice of Intent was filed: \_\_\_\_\_

**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 9.a. or 9.b. 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 Policy Section 3.b.

**C. Dual Employment with Other State Agencies**

There is a state-wide uniform policy to be followed when one state agency secures the services of an employee of another state agency on a part-time, consulting, or

contractual basis. While conditions vary between agencies, this policy does attempt to cover as many situations as possible and applies to all state employees both subject to (SPA) and exempt from (EPA) provisions of the State Personnel Act and to all state agencies.

The policy defines what will be considered honoraria, requires the approval of the chancellor in order for an employee to perform services for pay for another state agency, and provides procedural guidelines for implementing the policy. Policy #8, formerly Executive Memorandum 76-19 provides the essential features of the policy.

1. If a faculty or staff member who is on a regular nine-month contract is not employed by the university for the summer months, the faculty or staff member is considered a free agent during this time, subject, however, to the conflict of interest statement.
2. It is expected of faculty that, in addition to their teaching responsibilities, office hours will be maintained for the benefit of student consultation and that committee or other assignments will be met. It is recognized that individuals from time to time may overextend themselves and be unable to meet all requirements. If, in the opinion of the faculty or staff member's immediate supervisor, the member has overextended himself/herself and the university responsibilities are not being met or if excessive extramural or university activity is reducing the individual's university effectiveness, it is the responsibility of the immediate supervisor to insist that the individual make proper adjustments to fulfill the faculty or staff member obligations to the university.
3. When a faculty or staff member engages in outside professional activity, the faculty or staff member's actions, conduct, and remuneration, if any, must adhere to The Code of ethics as established by his/her respective profession.
4. At no time are outside activities to be carried on in the name of the university without the approval of the chancellor or the chancellor's authorized representative.
5. A full-time member of the faculty or a full-time administrator shall not, during the academic year or other term of his/her employment, be employed for remuneration by agencies other than the university except with approval in writing by the appropriate administrative officer. Such approval may be granted in the case of professional employment only when either or both of the following conditions exist: when the work in question gives promise of enhancing the individual's usefulness as a teacher or scholar; when the work is of a distinctly public nature or when for any other reason the university wishes to be actively engaged in its furtherance.

6. In case of nonprofessional employment, such approval may be granted only when it appears that such activity will not interfere with the performance of university duties or impair the usefulness of the individual as a teacher and scholar.
7. In the case of part-time university appointment, the portion of time which is engaged by the university shall be definitely stated in the appointment contract and this portion of time shall be governed by this policy.