

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: February 14, 2011

REGULATION TITLE:

Disclosure and Regulation of Outside Activities and Financial Interests

REGULATION NO.:

1.011

SUMMARY: Amendments to the regulation provide for reporting the required use of books, supplies, or other resources when they are created or published by the faculty member or other employee, the employee's spouse, domestic partner or minor children and the total annual remuneration is over \$500. An employee may not receive remuneration for materials reflecting general course information or assignments or for evaluation materials. If an employee or other person or entity as described may benefit from the sale of required books, supplies, or other materials, such materials may be assigned only if they have been selected for academic reasons, are offered at a fair market price, have been adopted for use at other higher education institutions, have been through a peer review process, are the original work of the employee, are protected by copyright, patent, or trademark, and are published or reproduced by an incorporated or registered entity, and their use does not require the user to waive any intellectual property rights.

AUTHORITY: BOG Regulation 1.001

COMMENTS CONCERNING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION

IS: Rebecca J. Holt, Administrative Assistant, 123 Tigert Hall, Post Office Box 113125, University of Florida, Gainesville, Florida 32611, 352-392-1358 office, 352-392-4387 facsimile, regulations@ufl.edu.

NAME OF PERSON WHO APPROVED THE PROPOSED REGULATION: Joseph Glover, Provost and Senior Vice President for Academic Affairs

THE FULL TEXT OF THE PROPOSED REGULATION IS ATTACHED TO THIS NOTICE.

REGULATIONS OF THE RULES OF
UNIVERSITY OF FLORIDA

~~6C1-1.011 University of Florida;~~ Disclosure and Regulation of Outside Activities and Financial Interests.

(1) General Requirements.

(a) ~~The faculty and staff members~~ All employees of the University of Florida must be committed to the University's goals of teaching, research, and service and recognize that their primary professional responsibility is to the University. ~~Employees of the University may also engage in outside employment, consulting, and other similar activities. These activities may further the dissemination and use of the knowledge and expertise developed at the University and may also advance the professional competence and reputation of the faculty and staff members. Thus, participation in outside activities often serves the mission of the University in addition to benefiting individual employees. Such activities and the financial interests of faculty and staff members are, however, of concern to the University if they result in conflicts with the employees' duties and responsibilities to the institution. It is the policy of the University that faculty and staff members may participate in outside activities and hold financial interests as long as the activities and interests do not conflict with their duties and responsibilities.~~

——(b)—— All University employees, which includes Academic Personnel (AP), Technical, Executive, Administrative, and Managerial Support (TEAMS) employees, University Support Personnel System (USPS) employees, and Other Personnel Services (OPS) employees, are responsible for the full and faithful performance of their professional or institutional responsibilities and obligations.

(be) All University employees are bound to observe, in all official acts, the highest standards of ethics consistent with the code of ethics of the State of Florida (Chapter 112, Part III, Florida Statutes), the advisory opinions rendered with respect thereto, and the Regulations rules of the University of Florida, including but not limited to this Regulation 1.011.

(~~c~~d) No employee shall solicit or accept anything of value that is based upon an understanding that the official action or judgment of the employee would be influenced thereby.

(~~d~~e) No employee shall have an employment or contractual relationship or engage in a business or personal activity that will create a continuing or frequently recurring conflict between that employee's private interest and the performance of the employee's official duties.

(~~e~~f) An employee engaging in an outside activity must take reasonable precautions to ensure that the outside employer or other recipient of services understands that the employee is engaging in such outside activity as a private citizen and not as an employee, agent, or spokesperson of the University.

(2) Definitions.

(a) "Outside activity" shall mean any private practice, private consulting, employment, teaching, research, business (including managerial interests or positions), or other activity, compensated or uncompensated, which is not part of the employee's assigned duties and for which the University provides no compensation.

(b) "Conflict of interest," shall mean:

1. any conflict between the private interests of the employee and the public interests of the University of Florida or the State of Florida, including conflicts of interest specified under Florida Statutes; or

2. any outside activity or financial interest which interferes with the full and faithful performance of the employee's professional or institutional responsibilities or obligations, including but not limited to conflicts of commitment.

(3) Activities and Financial Interests To Be Reported.

(a) The following outside activities and financial interests must be reported prior to engaging in the activity:

1. Outside activities in which there is more than an incidental use of University facilities, equipment, and/or services.

2. Outside activities in which a University student or other University employee is directly or indirectly supervised by the employee if the employee in any way supervises, ~~or~~ evaluates or serves in a formal advisory role for the student or other employee at the University.

3. Management, employment, consulting, and other contractual activities with, or ownership interest in, a business entity or state agency which does business with the University. In the case of material financial and managerial interests, the information required extends to the spouse and/or children of the employee, and for managerial interests, to relatives.

a. Material financial interest is defined as direct or indirect ownership of more than five (5) percent of the total assets, ~~or~~ capital stock, ownership, or voting interest of the business entity.

b. Managerial interest includes serving as an officer, director, partner, proprietor, etc. of the business entity.

c. If the business entity or state agency with which the employee has a contractual relationship or in which the employee, the employee's spouse and/or children have an ownership interest wishes to enter into a licensing or research agreement with the University, an exemption allowing such an agreement may be approved by the President or the President's designee and the Chair of the Board of Trustees. Application for this exemption is made through the Office of ~~Research and Graduate Programs~~.

d. If the employee is disclosing a material financial interest or managerial interest, the employee, if involved in the procurement process, is responsible for ensuring that written authorization by the President or designee is attached to each applicable requisition to purchase.

4. Management, employment, consulting, and other contractual activities with, or ownership interest in, a business entity which competes with the University.

5. Candidacy for or holding a public office.

6. Required use of books, supplies, or other ~~instructional~~ resources at the University of Florida when they are created or published by the employee, or the employee's spouse or domestic partner or minor child(ren), or by an entity in which the employee, or the employee's

spouse or domestic partner or minor child(ren) has any financial or managerial interest, if more than \$500 is received or expected to be received annually by any or all of them individually or in the aggregate, directly or indirectly, or through the entity in which they have a financial or managerial interest, from the sale, assignment, license or use of such books, supplies or other resources by the employee, spouse, domestic partner, minor child(ren), and/or the entity in which there is a financial or managerial interest.

7. Professional compensated activities, including but not limited to honoraria in excess of travel expenses, teaching at another institution, and employment as an expert witness.

8. Business activities, including service on the board of directors or other management interests or position, with regard to a business entity in the same discipline or field in which the faculty or staff member is employed.

9. Any employment, contractual relationship, or financial interests, including intellectual property rights, of the employee which may create a continuing or recurring conflict between the employee's interests and the performance of the employee's ~~University~~^{public} responsibilities and obligations, including time commitments. This includes any outside activity in which the employee is required to waive rights to intellectual property.

(b) Any employee submitting a federal grant or contract proposal or conducting research or educational activities pursuant to a federal grant or contract must adhere to the applicable requirements of the funding agency, including those involving the disclosure and regulation of outside activities and financial interests. Therefore, any employee submitting a grant or contract proposal to the Public Health Service or the National Science Foundation or conducting research or educational activities pursuant to such a grant or contract as an investigator must report outside activities and financial interests (including activities and interests of the investigator's spouse and/or dependent children) that would reasonably appear to be affected by the proposed or funded research or educational activities, including interests in entities that would be so affected, or otherwise meet the applicable disclosure standard. An "investigator" is defined as the principal investigator, co-principal investigator, or any other ~~person~~^{employee} responsible for

the design, conduct, or reporting of the proposed or funded research or educational activities. The initial report must be made at the time the proposal is submitted.

(c) Outside activities which the employee should conclude may create an actual or apparent conflict of interest, including conflict of time commitments, which are otherwise not required to be reported under paragraphs (3)(a) or ~~paragraph 3(b) above of this rule~~ must be reported as soon as practicable.

(d) The selection and use of instructional materials in which the employee, the employee's spouse or domestic partner or minor child(ren) has a financial interest are subject to the following guidelines.

1. Employees who are instructors are responsible for the assignment of instructional materials, such as textbooks and other academic materials, for use by their students. The selection of these materials must be made for academic reasons and may not be based on financial gains for the individual employee, the employee's spouse or domestic partner or minor child(ren) or the University.

2. An employee, the employee's spouse or domestic partner or minor child(ren), and an entity in which the employee or the employee's spouse or domestic partner or minor child(ren) has a financial interest may not receive a financial benefit from personal remuneration for materials reflecting general course information or assignments or evaluation materials created or developed exclusively for use in University of Florida courses or other University instructional activities. Examples of such materials are exams, quizzes, syllabi and class notes, extra credit assignments, annotated syllabi, and course packs.

3. If an employee, the employee's spouse or domestic partner or minor child(ren) may financially benefit from the sale or use of required books, supplies, or other resources ~~instructional materials not created or developed exclusively for use in the employee's classroom, the employee's other instructional activities, or other University of Florida instructional activities,~~ these materials ~~may~~ are to be required assigned only under the following conditions:

a. The department chair and dean or director have approved such an arrangement on the University's Disclosure of Outside Activities and Financial Interests (form OAA-GA-L-267/rev. 04/02), submitted by the employee ~~who may benefit financially~~, and

b. The materials have been selected for academic reasons independent of any financial gain for the persons and entities described, are offered at a fair market price, have been adopted for use at other higher education institutions, been through a peer review process, are the original works or creations of the employee and not a collection of the works of others, are protected by copyright, patent, or trademark, and are published or produced by an incorporated or registered publisher, company, or entity. Their use may not require the user to waive any intellectual property rights.

~~b. Sufficient numbers of copies of the instructional materials are placed on reserve in the University Libraries for use by students in the course or other instructional activity.~~

~~4. Works of a University employee may be owned by the University or by the individual. The classroom use of instructional materials owned by the University of Florida may financially benefit the employee, department, college, and the University. In such cases, in addition to the above constraints, the unit administration is advised to take any additional steps necessary to ensure that the selection and use of these materials are based on appropriate academic grounds.~~

(e) The reporting requirements of this ~~regulation~~ rule shall apply to full-time and part-time employees. Unless otherwise required under federal grant regulations, the reporting requirements shall not apply to activities performed wholly during an interval of the year in which the employee is assigned no professional or institutional responsibilities and obligations by the University.

(4) Disclosure and Approval Procedures for all University employees.

(a) The University's form OAA-GA-L-267/Rev. 04/02 entitled, "Disclosure of Outside Activities and Financial Interests " shall be filed with the President or designee, who shall normally be a dean, director, or vice president. The form (OAA-GA-L-267/rev. 04/02), which is

incorporated by reference, may be obtained in the college or unit administrative offices. The form must be completed and filed at the beginning of the contractual year of employment, prior to such time as the outside activity or financial interest begins, or at such time as disclosure is required under applicable federal grant requirements. If a material change in the information presented occurs during the contractual year, a new form must be submitted. The following information is required as to each outside activity or financial interest reported:

1. Name of employing entity, person, client or other recipient of services, or name of entity in which the financial interest is held, and nature of its business. In the case of service as an expert witness or representation of a party in a lawsuit, the party represented or employing the expert must be identified along with all other parties involved in the matter.
2. Source of compensation, including client fees.
3. Involvement of students and other employees in the activity, employing entity, or entity in which the financial interest is held.
4. Nature or type of activity or financial interest (description of equity interest or intellectual property), including time spent if an activity is involved (estimated hours per week including travel).
5. Location and anticipated dates of activity.
6. Any conditions of the activity which involve waiving or impairing the employee's or University's right to intellectual property.
7. Use of University equipment, facilities, or services in connection with the activity.
8. Number of outside activities and financial interests filed for the current contractual year.
9. Prior approval of the activity or financial interest in the previous contractual year, if applicable.
10. Any other documentation necessary to determine the nature and extent of any actual or potential conflict of interest.

(b) If there are any questions regarding a potential conflict of interest, the employee should discuss the activity or financial interest with his or/her chairperson or immediate supervisor.

(c) In the event the proposed outside activity or financial interest is deemed by the immediate supervisor or chairperson to represent a potential conflict of interest the matter shall be discussed with the Dean or Director, as the Presidential designee.

(d) If the Dean or Director finds that the proposed outside activity or financial interest is a conflict of interest, the employee shall be notified promptly of the decision that he or she may not engage in the proposed activity while employed at the University or of the conditions under which the outside activity or financial interest may be permitted.

(e) Authorization for an outside activity or financial interests is granted for a specific period of time, not to exceed one (1) year ending June 30th. If the outside activity is to extend beyond June 30th, a new Disclosure of Outside Activities and Financial Interests must be submitted prior to July 1 of each year for the new fiscal-year period. If the outside activity or financial interest is permitted with conditions, the employee is required to adhere to the conditions during the period that the activity or financial interest is authorized.

(f) Academic Personnel and exempt TEAMS employees are required to indicate on the annual employment contract or notice of appointment whether they are involved in outside activities or have financial interests required to be reported under this regulation~~rule~~. USPS and non-exempt TEAMS employees are required to indicate on their annual Performance Evaluation form whether they are involved in outside activities or have a financial interest required to be reported under this regulation~~rule~~. OPS employees shall follow the reporting procedure as outlined in this regulation~~rule~~. If the answer is affirmative, the employee may attach the Disclosure of Outside Activities and Financial Interests to the contract, notice of appointment, or performance appraisal form or submit the report(s) through the appropriate administrative channels.

(5) Disclosure and Approval Procedures for Additional University

Compensation Employment and Employment by a State Agency. Any employee who wishes to engage in outside employment by an agency of the State of Florida or another state university must submit a Request for Approval of Additional University Compensation Employment and State of Florida Employment (form HR-600-8/0410/02), which is incorporated by reference, to the appropriate administrative officials and obtain approval prior to engaging in such activity. A copy of this form may be obtained in the college or unit administrative offices. No “Disclosure of Outside Activities and Financial Interests” need be filed for the activity as the completion of the “Request for Approval of Additional University Employment and State of Florida Employment” form fulfills the employee’s obligation to report. The same procedure is used for those employees who are employed in excess of one (1) full-time equivalent position at the University or who receive compensation as a University employee simultaneously from any appropriation other than appropriations for salaries. An exception to this procedure is employment by the University Press of Florida (UPF). Approval of UPF employment is granted by the President or designee, and such approval, which is submitted by the UPF to the Office of the Provost, fulfills the employee’s obligation to report the activity.

(6) Procedure for Requesting Use of University Resources. If an employee has the University's approval to engage in outside activity, the employee may request approval for the use of University equipment, facilities, or services in connection with the outside activity. The University must approve the use in advance. The employee must request such approval by completing and submitting the University's form OAA-GA-L-268/10-2002 entitled Request to Use University Equipment, Facilities, and Services in Conjunction with Non-University Outside Activity, which is incorporated by reference, and may be obtained in the college or unit administrative offices. The forms should be attached to the Disclosure of Outside Activities and Financial Interests . The use of any of these resources will be allowed only on a non-interference basis, and there may be a charge for such use.

~~Specific Authority: BOG Regulation 1.001-1001.74(4) FS.~~

~~Law Implemented 112.313, 112.3185, 1001.74(6), (19), 1001.75(3) FS.~~

History--New 5-28-80, Formerly 6C1-7.391, Amended 3-6-85, Formerly 6C1-1.11,
Amended 3-2-87, 5-21-89, 7-11-94, 4-30-95, 12-12-95, 6-28-98, 6-21-00, 5-22-01, 1-7-03, 7-5-
04, Formerly 6C1-1.011, Amended _____.