

Appendix S: K-State Policy on Conflict of Interest and Conflict of Time Commitment

Preamble

Conflicts of interest and time commitment are endemic to the modern university. These conflicts are a consequence of the many and varied roles that university members play in such areas as technology transfer and applied research, the creation of new multimedia teaching tools, and activities as expert consultants to local, state, and national governments as well as to the business community. The goal of this policy is to manage real or apparent conflicts of interest and time commitment. A system of self-disclosure will be the most effective for Kansas State University, since conflicts of interest and time commitment must be dealt with on a case by case basis. Discussion, disclosure, and negotiation generally can resolve disputes related to conflict of interest and time commitment.

This statement of policy concerning conflicts of interest and time commitment has been developed by a university task force in order to ensure compliance with the laws of the State of Kansas and mandates from the Board of Regents (**BOR**) and federal funding agencies, the latter as a prerequisite for their future support.

A. General Principles

This policy is based on the Board of Regents' policy entitled *Commitment of Time, Conflict of Interest, Consulting and Other Employment*, ~~and the Faculty Senate adopted it on January 16, 2001~~. The text in bold face, italic type is taken directly from the Regents' policy.

1. Conflict of Time Commitment

(a) ~~Attempts to balance university responsibilities outlined in the preamble with external activities, (such as, but not limited to, consulting, public service or pro bono work,) can result in real or apparent conflicts regarding commitment of time and effort. Whenever a faculty or staff member's external activities exceed reasonable time limits, or whenever a full-time faculty or full-time unclassified professionals staff or faculty member's primary professional responsibility is not to the institution, a conflict of time commitment exists.~~

(b) ~~Conflicts of commitment usually involve issues of time allocation. Full-time faculty members and full-time unclassified professionals staff of Regents' institutions state universities owe their primary professional responsibility to their employing institutions, and their primary commitment of time and intellectual effort should must be to the education, service, research and scholarship missions of said those institutions. Faculty and unclassified professionals staff should maintain a presence on campus commensurate with their appointments. The specific responsibilities, position requirements, employment obligations and professional activities that constitute an appropriate and primary commitment of time will differ across schools and departments, but said responsibilities, requirements, obligations and activities should be initially premised on a general understanding of full-time commitment for full-time faculty or unclassified professionals staff of the institutions universities. Exceptions must be justified and shown to enhance the institutional mission and must be approved in advance by the faculty or staff member's supervisor.~~

2. Conflict of Interest

(a) ~~A conflict of interest occurs when there is a divergence between an individual's private, personal relationships or interests and his/ or her professional obligations to the university such that an independent observer might reasonably question whether the individual's professional actions or decisions are determined or substantially influenced by considerations of personal benefit, gain or advantage.~~

(b) ~~Whether a conflict of interest or the appearance of one exists it depends on the situation, and not necessarily on the character or actions of the individual, and must be determined objectively on a case by case basis. The appearance of a conflict of interest can be as damaging or detrimental as an actual conflict. T and thus, for purposes of this policy, apparent conflicts are treated the same as actual conflicts. -individuals are asked to report potential conflicts so that appearances can be separated from reality.~~

(c) ~~Situations involving potential conflicts of interest are not unusual common in a modern university and must be addressed. For example, conflicts of interest can arise out of the fact that Regents institutions State universities have as part of their mission the promotion of the public good by fostering the transfer of knowledge gained through university research and scholarship to the private sector. Two important means of accomplishing the institutional mission include consulting and the commercialization of technologies derived from research. It is appropriate that university personnel be rewarded for their participation participating in these activities through consulting fees and sharing in royalties resulting from the commercialization of their~~

work. It is ~~wrong~~ not appropriate, however, for an individual's actions or decisions made in the course of his or her university activities to be determined or substantially influenced by considerations of personal financial gain. Such behavior calls into question the professional objectivity and ethics of the individual, and it also reflects negatively on the employing university. ~~Regents institutions~~ State universities are institutions of public trust; university faculty and ~~unclassified professionals~~ staff must respect that status and conduct their affairs in ways that will not compromise the integrity of the university.

(d). Except in ~~a~~ purely incidental and minor ways, university resources, including but not limited to, facilities, materials, personnel, or equipment ~~may~~ shall not be used in external activities unless prior written approval has been received ~~in advance~~ from the institution's chief executive officer or his/ or her designee. Such permission shall be granted only when the use of university resources is determined to further the mission of the institution. When such permission is granted, the faculty or staff member ~~or unclassified professionals~~ member will shall make arrangements ~~to for~~ reimbursement of the university for ~~customarily precedable~~ institutional materials, facilities or services used in the external activity. Such use may never be authorized if it violates the Board of Regents policy on Sales of Products and Services.

(e). Proprietary or other information confidential to a ~~state university~~ Regents institution ~~may~~ shall not ~~never~~ be used in external activities unless prior written approval has been received ~~in advance from the university's~~ chief executive officer or designee.

(f). ~~Faculty or unclassified professionals may~~ University personnel shall not involve university students, ~~classified university~~ staff, ~~unclassified professionals or~~ or university faculty in their external activities if such involvement is in any way coerced or in any way conflicts with the involved participants' required commitment of time to their ~~university~~ university. For example, a student's grades or progress towards a degree may not be conditioned on participation in a university employee's external activities.

(g). At K-State a college or unit may, in consultation with the provost, add clarification to the above definitions of conflict or apparent conflict relating to other actions leading to conflicts of interest or time commitment that are unique to the unit's professional mission.

(h). The university's nepotism policy is stated in PPM chapter 4095. (POD 12/09/10)

3. State Ethics Statutes

All employees shall adhere to all applicable state ethics statutes.

B. Consulting and Other Employment (See Section D40)

(1-) Consulting for Other State of Kansas Agencies

Consulting by faculty members and employees of institutions under the jurisdiction of the Board for another institution under the jurisdiction of the Board, as well as consultation for other state agencies, shall be approved in advance by both (a) the institution or agency seeking these services, and (b) approved by the employee's home institution. The home institution shall effect payment through the regular process and shall receive reimbursement through the interfund transfer process. (12-16-77; 11-19-82; 5-17-85)

(2-) Other Consulting Outside the ~~university~~ University

For ~~members of the~~ faculty and unclassified professionals, ~~the Regents institution~~ the state university permits, and, indeed encourages, a limited amount of consulting activity ~~personal, professional activity~~ outside the faculty member's or unclassified professional's ~~reasonable~~ reasonably construed total professional responsibilities of employment by and for the ~~institution~~ university, on subjects that are within the faculty or unclassified professional member's area of professional expertise, provided such activity: (a) further develops the faculty member or unclassified professional in a professional sense or serves the community, state, or nation in ~~a professional capacity~~ an area related to the faculty or unclassified professional member's professional expertise; (b) does not interfere with the faculty ~~member's~~ or unclassified professional member's ~~'s~~ teaching, research and service to the ~~institution~~ university; and (c) is consistent with the objectives of the ~~institution~~ university. Regular instructional service to other educational institutions is normally regarded as an inappropriate ~~personal, professional~~ activity and is thus generally prohibited. Without prior written approval, faculty ~~members~~ or unclassified professional members on full-time appointments must ~~shall~~ not have significant outside managerial responsibilities, nor act as principal investigators, on sponsored projects that could be conducted at their ~~institution~~ employing university but instead are submitted and managed through another organization.

3. Other Employment

The Board of Regents expects all faculty and unclassified professionals staff employed by the state universities Regents institutions to give full professional effort to their university duties and assignments. It is, therefore, considered inappropriate to engage in gainful employment outside the Regents institution state university that is incompatible with institutional commitments. It is inappropriate to transact business for personal gain unrelated to the institution university from one's institutional university office, or at times when it might interfere with commitments to the institution university. Participation in academic conferences, workshops and seminars does not usually constitute consulting or outside employment. However, organizing, and operating, or participating in such meetings for profit may be construed as consulting or outside employment as defined in this policy.

C. Reporting Requirements

(1). Annual Reporting of Consulting Arrangements, Significant Financial or Managerial Interests, and Outside Employment

As part of the annual appointment process, all faculty and unclassified professionals staff with 100% time appointments must shall disclose to the university whether they or members of their immediate family (spouse and dependent children), personal household, or associate entities (e.g., corporations, partnerships or trusts in which they have a significant interest) have consulting arrangements, significant financial or managerial interests, or employment in an outside entity. This report and information shall be provided to the university no less than once year. Each university shall be permitted to use a form of its administration's own choosing to collect the required information so long as it contains the threshold requirements contained in this policy. The state university may, at its discretion, require its faculty and unclassified staff to submit information in addition to that required by its policy, but in no event shall the reporting faculty and staff be permitted to report less information than is required by this policy.

~~whose financial or other interests would reasonably appear to be directly and significantly affected by their research or other university activities. For purposes of the policy, significant financial or managerial interests (or significant financial or other interests) means all holdings greater than \$105,000 or more than 5% [aggregated for a faculty member, his or her spouse, dependent children and personal household members], ownership in a company. Faculty and unclassified professionals members who hold fractional appointments and who have potential or possible conflicts of time commitments or conflicts of interest, as defined above, are also required to make the disclosures.~~

Failure to timely submit the required reporting form ~~as approved by the Council of Presidents (the Annual Declaration and Disclosure) and any updates that may be filed,~~ to the university shall will result in denial of the opportunity to submit research proposals to external funding agencies ~~until the form is submitted~~ and may result in discipline in accordance with university procedures. When the institution judges university determines that the information submitted indicates that an actual or apparent conflict of time commitment or conflict of interest does or may exist, the institution university may require that the faculty or unclassified professionals staff member to submit additional information and explanation regarding that conflict.

(2). Ongoing Duty to Reporting Consulting Arrangements, Significant Financial or Managerial Interests, and Outside Employment Ad Hoc Current or Prospective Conflicts As They Occur.

In addition to the annual report that Ffaculty and unclassified professionals staff are required to make, all faculty and staff shall must disclose ~~on an updated Annual Declaration and Disclosure to the department chair or dean or supervisor on an ad hoc basis~~ any current or prospective situations that may raise questions ~~or of~~ conflict of time commitment or conflict of interest, as soon as such situations become known. ~~to the faculty or unclassified professionals member.~~ Such reports shall be made to the department chair or dean or supervisor of that staff or faculty member.

(3). Reporting of Consulting

~~Aside from the exception specified below, the faculty member or unclassified professional must report the proposed arrangements for personal professional activities on the Consulting Request Form and secure approval prior to engaging in the activities. For all activities concerned, the report should indicate the extent and nature of the activities, the amount of time to be spent in the activities, and the total amount of time spent or expected to be spent on all such outside activities during the current academic year.~~

The faculty member must inform the provost, through the department chair or head and the dean, of all external personal, professional activities. ~~For faculty members only, personal, professional activities that occur within a single 24-hour period need not have prior approval but must be reported annually in writing on the Annual Declaration and Disclosure.~~

~~Unclassified professionals must inform the appropriate vice president or the provost, through the unit head and any appropriate administrator, of all external personal professional activities. Unclassified professionals must obtain approval prior to engagement in all external personal professional activity regardless of the length of engagement.~~

(3) Federal Reporting Requirements

State universities are required to adhere to and implement any additional policies and procedures and disclosure requirements that are imposed by applicable federal conflict of interest laws. State universities may modify the reporting form established pursuant to paragraph (1) of the subsection c. without seeking approval of the Council of Presidents, as necessary to meet or exceed such federal requirements. Such modifications shall not result in less comprehensive reporting.

(4) Prior Approval for Consulting and Other Employment Outside the University

Faculty and staff shall inform the chief academic officer, through the department chair or head and the dean, of all consulting activities. The faculty or staff member shall report in writing the proposed arrangements, and secure approval prior to engaging in consulting activities or other employment. The report shall indicate the extent and nature of the consulting activities or employment, the amount of time to be spent, including travel time, and the amount of time expected to be spent on all such outside consulting activities or employment during the coming academic year.

For faculty members only, personal, professional activities that occur within a single 24-hour period need not have prior approval but must be reported annually in writing on the Annual Declaration and Disclosure.

Unclassified professionals must inform the appropriate vice president or the provost, through the unit head and any appropriate administrator, of all external personal professional activities. Unclassified professionals must obtain approval prior to engagement in all external personal professional activity regardless of the length of engagement.

(45) Disposition of Reports

All required reports shall be submitted in accordance with ~~institutional-university~~ requirements and shall be maintained in a centralized file to be used for the determination of whether an individual is in compliance with this policy. Such reports will also be available to institutional research officers to permit certification and/or verification of compliance with federal regulations. Institutions must maintain these reports for a minimum of three years.

D. Use of University Name

The name of the Board of Regents, a ~~Regents-institution~~state university or the Regents System may never be used as an endorsement of a faculty or staff member or unclassified professionals member's external activities or by any outside entity for any purpose without expressed and advance written approval of the university chief executive officer and/or the Board's President and Chief Executive Officer/Director, as appropriate. Faculty members or unclassified professionals and staff members may list their institutional affiliation in professional books, articles and monographs they author or edit and in connection with professional workshops they conduct or presentations they make without securing approval.

E. K-State Review Process

Reporting procedures developed at K-State reflect the requirements in the policy adopted by the Board of Regents. Two forms have been developed to implement this policy, the Annual Declaration and Disclosure (developed by Board of Regents staff) and the Consulting Request. The Annual Declaration and Disclosure will be attached to each annual contract and is to be returned every year to the unit head with the signed contract, and updated as provided in C2. The Consulting Request form must be filed with and approved by the unit head, dean, and provost in advance of undertaking any consulting activity.

1. Responsibilities of Unit Heads

- (a)- The unit head will review the Annual Declaration and Disclosure or the Consulting Request. The unit head will indicate by an approval signature when a report or request does not appear to indicate a possible conflict of interest or where a satisfactory management plan has been developed at the unit level. The reports or requests and any management plans that have been developed shall be forwarded to the dean or appropriate administrator.
- (b)- In cases where the unit head determines that there may be a possible conflict of interest or time commitment, the

management of which is unresolved at the unit head level, the following procedures will be followed: (i) the unit head will prepare a written summary of the case. The faculty or unclassified professionals member affected must have the opportunity to review and discuss the summary with the unit head and will have the opportunity to submit to the unit head a written response recording his or her perception of the case; (ii) before the unit head submits the summary to the next administrative level, the faculty or unclassified professionals member must sign a statement acknowledging the opportunity to review and to discuss the summary and indicating whether he or she submitted a written response; (iii) the unit head who prepared the summary must submit to the dean or appropriate administrator all forms, the summary of the case, including the facts indicating a possible conflict of interest or time commitment, and any written responses prepared by the faculty and unclassified professionals member.

2. Responsibilities of Deans/Comparable Administrators

(a) The dean will review all of the materials submitted to ensure that the correct procedures have been followed. The dean will then determine whether the case involves a conflict of interest or time commitment or the appearance of one, and whether any conflict management plan which has been developed is acceptable. In cases where there is no such conflict or where the conflict management plan is acceptable, the dean will show approval by signing the Annual Declaration and Disclosure or Consulting Request.

(b) The dean will make recommendations for managing any real or apparent conflict that has not been resolved at the unit level. These will be presented to the unit head and the faculty and unclassified professionals member. Those individuals must indicate in writing their acceptance of the dean's recommendation or their rejection of the recommendation. A written rejection must include the reasons why the individuals find the recommendation unacceptable.

(c) The dean must forward to the provost the form(s) and associated documentation (plans of management, recommended plans of management, and written statements of agreement or unresolved differences).

3. Responsibilities of the Provost

(a) The provost will review all the reports or requests and supporting materials and recommendations. The provost will assess whether any conflicts or apparent conflicts of interest or time commitment exist, whether management plans which have been developed adequately manage any conflicts of interest and time commitment, and whether there are any inequities in the recommendations for management of conflicts.

(b) If the provost does not agree with recommendations for conflict management made by subordinate administrators, an attempt must be made to reach consensus through consultation. If this fails, the provost's recommendation will be used. The individual(s) affected by the disagreement must be notified by the provost, in writing, of the provost's decision and its rationale.

(c) In accordance with guidelines issued by the National Science Foundation and the Department of Health and Human Services (Federal Register 11 July 1995), prior to the expenditure of any funds awarded by NSF or NIH, K-State must certify that for each award, any identified conflicts of interest will be managed, reduced, or eliminated. Conflicts which cannot be satisfactorily managed, reduced, or eliminated must be disclosed to the NSF or HSS.

4. Appeals

In the event that agreement is not reached by all parties concerned with the management of a case of conflict or apparent conflict, the aggrieved parties may pursue a grievance following the procedures in Appendix G of the University Handbook.

F5. Sanctions

In the event that a faculty or unclassified professionals member fails to comply with this policy, he or she will be subject to sanctions ranging from the loss of the privilege of submitting grant proposals and receiving extramural support to, in extreme cases, dismissal for cause (University Handbook C161.1).

GF. Distribution and Dissemination

The policy statement will be distributed upon initial appointment to all faculty and unclassified professionals members/staff by each Regents institution/state university.