

Southern Illinois University Carbondale

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POLICIES (../index.php)

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CONFLICT OF INTEREST AND CONFLICTS OF COMMITMENT

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I. INTRODUCTION

Southern Illinois University Carbondale (the "University") recognizes that it may benefit from participation by administrators, faculty, and staff members in external activities that enhance professional skills or standing or otherwise benefit the public. However, certain external activities may lead to conflicts of interest or conflicts of commitment. The University adopts this Policy and Procedure to assist the University and its administrators, faculty, and staff in determining the propriety and advisability of non-University activities and create a mechanism by which the University can review and manage external activities to ensure that a conflict of interest or conflict of commitment does not occur.

This Policy applies to all employees of the University, including but not limited to administrators, faculty, and staff. The Policy identifies procedures for consultation and advice on conflicts of commitment or conflicts of interest, for resolution of situations in which a conflict may exist, and for approval of exceptions when warranted. The Policy makes every effort to balance the integrity and interests of the Southern Illinois University Carbondale with the integrity and interests of its employees. The Policy and Procedures are intended to identify and eliminate or manage actual conflicts of commitment or interest and to prevent even the appearance of conflicts. The Policy provides for mechanisms to manage conflicts of commitment and interest, and for sanctions should those mechanisms fail.

This Policy applies to all employees of the University, whether they are employed on a full-time or part-time basis. In addition, this Policy implements the University Faculty Research and Consulting Act (110 ILCS 100/et. seq.). Under that Act, full-time faculty members are required to obtain prior written approval before engaging in certain types of non-University income producing activities. The Policy also contains mechanisms to ensure that the University remains in compliance with all laws, regulations, and rules including but not limited to the State Officials and Employees Ethics Act (5 ILCS 430/et. seq.) and the [Illinois Procurement Code \(http://www.ilga.gov/legislation/ilcs/ilcs3.asp?chapterid=7&actid=532\)](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?chapterid=7&actid=532) (30 ILCS 500/et. seq.).

II. DEFINITIONS

Conflict of Commitment: A "Conflict of Commitment" exists when the compensated external activities of the employee are so substantial or demanding of the employee's time and attention as to interfere with the performance of the employee's employment duties.

Conflict of Interest: A "Conflict of Interest" may arise when

- i. an employee is in a position to influence University business, research, or other decisions in ways that could lead to gain for the staff member or his/her immediate family to the detriment of the University's integrity and its missions of teaching, research, economic development, and public service, or
- ii. an employee desires to acquire a contract (outside of employment) to provide goods or services to the University.

Employee: For purposes of this Policy and Procedure, "Employee" shall mean all faculty, administrative professional staff, and civil service employees of the University.

Compensated External Activities: "Compensated External Activities" means any activity that is outside an employee's University employment responsibilities, is performed for any entity (for-profit or not-for-profit) or individual other than the University (including self-employment), and is undertaken for compensation, including activities for which there is in-kind remuneration such as the provision of travel expenses.

Immediate Family: "Immediate Family" includes the employee's spouse or domestic partner, parents, and children and corresponding in-laws.

III. POLICY STATEMENT

Conflicts of commitment and interest may occur as a result of the type and scope of activities engaged in by the University, its administrators, faculty, and staff members. The fact that a real, perceived, or potential conflict of interest exists will not necessarily exclude a particular activity since conflicts can span a wide spectrum. They go from those that are minor and inconsequential, to those for which a management plan can be devised, to those that have such serious consequences that they cannot be permitted.

The University, its administrators, faculty, and staff members have ethical and legal obligations to conduct themselves and their University activities in accordance with the highest standards of integrity.

Active participation by employees in outside activities that enhance their professional skills, or constitute a public service activity is encouraged. For example, providing professional services to outside organizations and participating in professional societies are viewed positively. However, the University expects its administrators, faculty, and staff members to fulfill their obligations to the University during their terms of appointment while they are also engaged in outside activities.

For review, approval, and reporting purposes, conflicts of commitment only occur during periods when the employee holds an active appointment, excluding formal leaves of absence^[1] ([# fn1](#)); however, conflicts of interest can occur at any time, including times outside the contract period (e.g., during the Summer months between academic term appointments).

A. Conflict of Interest

The possibility of a conflict of interest may arise in a variety of situations. Employees should be cognizant of the potential for a conflict of interest at all times when involved in outside activities. Some areas in which a conflict of interest may arise include:

Non-University Income Producing Activities. Although non-University income producing activities may result in a conflict of interest, some non-University income producing activities, such as consulting, may also contribute to an individual's professional growth. Activities which contribute to an individual's professional growth may be encouraged, especially when they are of benefit to the University. Further, non-University income producing activities which do not generate specific benefits to the University may also be allowed if the University's interests can be adequately protected.

Employees engaging in non-University income producing activities are not acting on behalf of the University and, therefore, may use their University affiliation for identification purposes only and may not use University resources or letterhead for such activities. The employee shall clearly indicate that he/she is not undertaking the activities for or on behalf of the University.

University facilities may not be used for non-University activities without permission from the University. Use is prohibited unless explicitly approved.

Business Relationships. A conflict of interest exists in cases in which the employee's position in the University allows the employee to be able to potentially influence any University business or research decision in a manner which could lead to benefit the employee or an employee's immediate family member.

Procurement-Related Conflicts. A conflict of interest exists if the University intends to purchase goods or services from an employee, an immediate family member of an employee, or an entity owned (in whole or in part) by an employee or an immediate family member of an employee. These transactions will normally be denied unless the transaction is essential for University operations. If the transaction is considered essential for University operations, then prior written approval of the President of the University or his/her designee must be obtained. Other conditions related to financial interests of employees and their families in entities that may seek to do business with the University may also create a conflict of interest that might not be allowable under the Illinois Procurement Code.

Intellectual Property. Any use of intellectual property will be in accordance with University policy and any applicable collective bargaining agreement governing such intellectual property.

Involvement of Students and Staff. The University recognizes that an employee's outside professional activities may benefit other individuals associated with the University (e.g., other University employees or students). However, because of the potential risks associated with these types of involvement, the disclosing employee must obtain prior written approval of the Dean (or equivalent) before any student or other employee involvement in outside activities if there is any possibility that the student or other employee will at some point be supervised by, evaluated by, or report to the disclosing employee. The Provost shall implement mechanisms to prevent the exploitation of students or employees and to ensure that the outside activities do not interfere with the University duties and responsibilities of employees, or with the academic progress of students.

In addition, the University recognizes that as a result of mutual involvement in outside activities a disclosing employee may be prejudiced or may be perceived as prejudiced in judging other employees in issues of rank, compensation, and tenure or in judging students' academic work. In such cases, the Dean (or equivalent) shall implement appropriate mechanisms to prevent bias in the judging of other employees or in judging student's academic work.

The disclosing employee shall ensure that any students or other employees involved in these outside professional activities are made fully aware of the circumstances and expectations of the activities, University policies regarding these activities, and the management mechanisms implemented by the employee and Dean or (equivalent).

B. Conflict of Commitment

Employees are encouraged to engage in external activities which enhance the professional skills of staff members or constitute a public service, thereby benefiting the University. Acceptable time commitments for these and other income producing activities will vary based on the individual, activities being performed, employing unit, and discipline. The ability of the employee and unit to meet all University assigned responsibilities and functions shall be of primary concern in reviewing these activities.

The devotion of any time to external activities, even to external activities which benefit SIUC, must not diminish the employee's commitment or service to the University and its academic mission, and must not conflict with required duties of the employee. Employees shall arrange any approved compensated external activities or other financial interests so that those activities or interests do not impede or conflict with the employee's University duties and responsibilities.

For full-time faculty, the University will recognize, as a general guide, that 40 days during an academic year appointment and 52 days during a calendar year appointment may be spent on such compensated external activities without creating a conflict of commitment. Additional days for external activities may be approved. For these purposes, a "day" is defined as any accumulation of eight hours, or eight or more hours during a single 24 hour period, during the active assignment period.

For part-time faculty or employees in periods of less than 100% appointment, time outside of the assigned effort and duties may be spent on external activities without creating a conflict of commitment.

C. Prior Approval Required for Potential Conflicts of Interest and Compensated External Activities

Unless specifically excepted in subsection D below, employees are required to obtain prior written approval for compensated external activities which occur during periods of employment, excluding formal leaves of absence, with the exception of sabbatical leaves, in accordance with the procedures contained in Section IV. Approval may be granted if no conflict of commitment or conflict of interest exists or if such conflicts can be managed under an approved conflict management plan. Unremunerated activities, whether of a charitable, professional, or personal nature, are not required to be reviewed and approved unless they would result in a conflict of interest. In the case of a potential conflict of interest, employees should discuss the activities with their immediate supervisors to determine whether review and approval of a proposed activity is warranted. In all cases, the employee is expected to ensure that such activities do not interfere with the employee's obligations to the University.

Examples of activities which may constitute a conflict of interest depending on the specific facts and information include but are not limited to:

- a. The employee's employment at any external business, independent contractor activities, paid coaching activities, and management of rental property. In addition, any external business activity, including but not limited to any lease or license of property to an SIU student or employee if that property is owned or managed by the employee.
- b. The employee's use of University resources, including but not limited to University equipment and office or lab space to engage in compensated external activities.
- c. The employee or employee's immediate family member serving in an executive or managerial capacity or holding significant financial interests in an entity doing business with the University.
- d. The employee or employee's immediate family member serving in an executive or managerial capacity or holding significant financial interests in an entity that directly benefits from the employee's specific research, including the conduct of test or clinical trials of products, devices, or services owned or controlled by the entity.
- e. The involvement of students or other employees in the employee's or immediate family member's external activities.

D. Allowable Income Producing Activities Not Requiring Prior Approval

1. The University has identified certain activities which do not require that an employee obtain prior written approval provided the following conditions are met:
 - a. The activities are not so extensive in time and effort that they constitute a conflict of commitment as defined in Section B.
 - b. Financial compensation, including in-kind compensation, for the activities do not violate any laws, rules, or executive orders of the state of Illinois or federal government (including the State Officials and Employees Ethics Act).

- c. Requirements for disclosure imposed by federal or state agencies are otherwise met.
2. The following activities are exempt from the disclosure and approval requirements of this Policy and Procedure, provided they meet all of the conditions of Section 1 above:
- a. Preparing, publishing, presenting, or performing scholarly or creative works, including books, articles, and software.
 - b. Exhibiting works of visual art, including exhibitions where the works are offered for sale.
 - c. Participating at professional conferences for the purpose of making scholarly presentations, conducting seminars or workshops.
 - d. Serving as a special reviewer or on a review panel for academic or governmental organizations.
 - e. Serving as a reviewer or editor for a scholarly journal.
 - f. Receiving passive income from leases of property or investments such as interest or dividends from banks, mutual funds, or stocks and bonds.

IV. PROCEDURES

The following procedures shall be used for the review, approval/denial, and appeal of requests to perform compensated external activities or for review of activities or relationships which may constitute a conflict of interest and/or conflict of commitment.

A. Request and Review of Non-University Activities

Disclosure is required for any relationships, commitments, or activities by the employee or his/her immediate family that would reasonably appear to present a conflict of interest with regard to the employee's University employment. These relationships may be of financial, fiduciary, or uncompensated nature, whether the external entity involved is for-profit or not-for-profit.

During periods of active employment, employees are required to obtain prior written approval before engaging in any compensated external activities with the exception of the activities specified in Section III (D) above.

To disclose apparent conflicts of interest or commitment and to request approval for compensated external activities, the employee shall complete and submit a Conflict of Interest/Conflict of Commitment Disclosure form (link) listing the nature of the external activity, an estimate of the amount of time that will be involved with the activity, and conflicts of interest with regard to the employee's university employment (as defined in this Policy). Nothing shall prohibit the administration from requesting additional information which is necessary to the review and assessment of any conflict of interest or commitment or to the establishment of an appropriate management plan for any conflict of interest or commitment. Any such request shall not require an employee to violate a non-disclosure agreement he/she has entered into related to the external activities. An initial prospective request for approval will be completed if appropriate during the new hire process. Throughout the year, additional disclosures and requests for prior approval are necessary whenever a change in such activities is proposed or when required by granting agencies.

Within this review policy, *Working Day* excludes weekends, holidays, and administrative closure days.

1. **Initial Review.** The employee shall submit the completed Conflict of Interest/Conflict of Commitment Disclosure form to the employee's Chair/Director (or equivalent) for review. The Chair/Director (or equivalent) shall provide information to the Dean (or equivalent) as to the expected impact of the proposed activity on the employee's University responsibilities and obligations along with a recommendation regarding whether to approve, deny, or establish a management plan for such activity. The Chair or Director shall provide this information and recommendation to the Dean (or equivalent) and the employee as promptly as possible, but no later than ten (10) working days after receipt of the Conflict of Interest/Conflict of Commitment Disclosure form from the employee.
2. **Dean (or equivalent) Review.** The Dean (or equivalent) shall review the request and the information obtained from the Chair/Director (or equivalent). If the Chair/Director (or equivalent) does not respond to the employee's request within the allotted ten (10) working days, the employee may forward the Disclosure form to the Dean (or equivalent) who shall then review the request. As promptly as possible, but no later than ten (10) working days after receipt, the Dean (or equivalent) shall either: (i) approve the request; (ii) deny the request; or (iii) approve the request with some restrictions or a management plan. The Dean (or equivalent) shall approve a request if the Dean (or equivalent) determines that the non-University activity does not impact the employee's University responsibilities and obligations and that no conflict of interest exists or that any such conflict is of such an insignificant and inconsequential nature that it will not compromise the employee's performance of the employee's duties and obligations to the University. If the Dean (or equivalent) determines that the proposed activities have a potential impact on the employee's University responsibilities and obligations or pose a potential conflict of interest but that any such impacts or conflicts of interest may be managed with a management plan or certain restrictions, then the Dean (or equivalent) shall communicate the scope of the approval of any activities along with the restrictions and/or management plan to be followed by the employee. If the Dean (or equivalent) determines that the proposed activities' impact on the employee's University responsibilities and obligations or that the conflict of interest are of such a nature that they cannot be managed with restrictions or a management plan, then the Dean (or equivalent) shall communicate the denial of the request with an explanation of the basis for the denial.
3. **Revocation of Approval.** The Dean (or equivalent), may revoke any approval or limited approval if the employee fails to fully disclose the nature of the activities when requesting approval or the activities interfere with the employee's obligations to the University. The Dean (or equivalent) may also modify any restrictions or management plan to address any issues raised by the activities or relationships contained in the Request.
4. **Appeals.** If the Dean (or equivalent) does not approve the outside activity, gives limited approval of the Request, or does not inform the employee of his or her decision within the allotted ten (10) working days, then the employee may appeal the decision, including any restrictions or issues with the management plan, to the Provost or appropriate Vice Chancellor. All appeals shall be filed within ten (10) working days of receipt of the denial or limited approval. Appeals shall be in writing, providing the reason(s) for the appeal and any facts or evidence which support those reasons. The Provost or appropriate Vice Chancellor shall rule on the appeal within ten (10) working days after receipt of the appeal.
If the employee has grievance or other procedural rights available to them, the employee may grieve the decision of the Dean to deny any request for approval of outside activities through that mechanism.
5. **Records Maintenance.** The Dean (or equivalent) shall submit all Conflict of Interest/Conflict of Commitment Disclosure forms to the Associate Provost for Academic Administration for areas under the Provost or to the Director of Labor and Employee Relations for all other areas.
6. **Annual Report.** At the end of each fiscal year, the administrators in charge of records maintenance will send each employee printed copies of the disclosure forms for each approved activity with a request for a report on the amount of time actually spent on approved compensated external activities. No later than August 31 of each year, the employee shall complete and provide such reports to the Associate Provost for Academic Administration for areas under the Provost or to the Director of Labor and Employee Relations for all other areas.

B. Compliance

Questions or concerns regarding application of or compliance with this policy should be directed to the University's Ethics Officer or the appropriate Provost/Vice Chancellor.

C. Sanctions for Violation of This Policy

Sanctions are warranted for failure to request approval of and to report on potential conflicts as required by this policy, or to abide by a management plan instituted under this policy. The University may impose sanctions consistent with the rights of employee under any collective bargaining agreement, University policy, or law. Nothing in this Policy and Procedure is intended to diminish or replace the procedural rights of employees.

[1](#_ftnref1) In the case of a contract that requires service over fewer than 12 months, but is paid over 12 months, conflict of commitment is relevant only during the active service period.

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