



<b>SUBJECT:</b> CONFLICTS OF INTEREST, CONFLICTS OF COMMITMENT AND OUTSIDE ACTIVITIES	<b>Effective Date:</b>  June 14, 2021	<b>Policy Number:</b>  8.3
	<b>Supersedes:</b> Report of Outside Employment Guidelines	<b>Page      Of</b>  1            8
	<b>Responsible Authority:</b> Provost Vice President, Administrative Affairs Chief Compliance & Ethics Officer	

**APPLICABILITY:**

This policy is applicable to all Florida Atlantic University employees.

**DEFINITIONS:**

*Conflict of interest:* A situation in which a person has a personal interest in or receives a personal financial, economic, professional or personal gain or advantage of any kind from the person’s position with the University in a manner that may (or may appear to) inappropriately influence the person’s professional judgment, compromise the person’s abilities to carry out institutional responsibilities, adversely affect the educational programs and professional careers of individual students and faculty members, or misuse or re-allocate University personnel and resources for private gain.

*Conflict of commitment:* An individual’s distribution of effort between a University appointment, obligation, and commitment and external professionally-related or personal activities. External activities may include teaching at another institution; consulting and other professional activities; and business activities related to outside entities including start-up companies. A conflict of commitment can arise when the external activities, which may be with or without compensation, burden or interfere with the employee’s primary obligations and commitments to the University.

*COI Review Committee:* A committee established to provide feedback for any outside activities or financial interests that may present a conflict of interest or conflict of commitment. The committee shall be comprised of representatives from the Office of the Provost, the Faculty Senate, the Division of Research, and the Department of Human Resources, and shall be

chaired by the University Chief Compliance and Ethics Officer. The COI Review Committee may consult with additional individuals and resources as needed for any particular matter.

*Financial interest:* Anything of value other than that provided directly by the University, including but not limited to equity interests (including any ownership stake in a startup company), interests in real or personal property, and intellectual property rights.

*Florida Code of Ethics:* The statutory provisions for public officers and employees found in Part III of Chapter 112 of the Florida Statutes, designed to protect against conflicts of interest and establish standards of conduct in situations where conflicts may exist. Other terms used in this policy not specifically defined may be defined in the Florida Code of Ethics.

*Management Plan:* A document approved, in conjunction with an employee's supervisor and the college dean or the unit director, and the applicable Provost or Vice President, that outlines specific actions which will be taken or conditions that will be conformed to minimize or eliminate the risk of a conflict of interest, when managing the conflict is reasonably feasible.

*Outside activity:* Any practice, consulting, employment, teaching, research, speaking engagements, or business (including managerial interests or positions or service on boards or commissions), or other activity, compensated or uncompensated, which is not a part of the employee's assigned duties and for which the University provides no compensation. Outside activities generally do not include participation in political, religious, social, fraternal, recreational or personal educational activities, unless the activity requires the provision of professional or board services, the activity is performed for compensation other than the reimbursement of expenses, or the activity otherwise creates a material conflict of interest or commitment.

## **POLICY STATEMENT:**

### **A. INTRODUCTION**

Employees of Florida Atlantic University may engage in outside employment, consulting, and other similar activities. These activities 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 may often serve the mission of the University in addition to benefiting individual employees. Such activities and the financial interests of faculty and staff members are of concern if they result in conflicts with the employees' duties and responsibilities to the University or the University's mission. 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 and/or the mission of the University.

There are many regulations and laws that must be considered in the area of conflicts of interest and conflicts of commitment. As state employees, the faculty and staff of the University are bound by the Florida Code of Ethics. The University also has regulations and policies and has entered into collective bargaining agreements dealing with outside activities and conflict of interest. Further, as a member of the National Collegiate Athletic Association, the University and its employees must also be compliant with applicable NCAA bylaws and rules. Nothing in this policy shall be construed to permit, even with disclosure, any activity that is prohibited by law or other regulatory authority.

In addition, the process for disclosing and managing conflicts of interest as described in this policy are the minimum steps that must be taken by those employees with a reporting obligation. It is possible that a particular situation or activity may call for specific steps beyond those outlined here for proper disclosure and/or management of a conflict. Particular units and activities of the University may also have specific conflict of interest policies or guidelines. Those specific policies may in certain cases be more restrictive than this University-wide policy and may be more expansive in its applicability.

## B. BASIC PRINCIPLES

Conflicts of interest include a variety of situations in which an employee is faced with conflicting loyalties. Traditionally of most concern are those situations in which regard for a private interest may lead to a disregard of the faculty or staff member's duties toward the University and its mission. Most often these arise when personal economic interests conflict with the duties toward the institution. Conflicts may also arise in instances in which the faculty or staff member will not receive any economic benefit from the outside activity.

Although a specific work-week is not defined for full-time faculty members, it is expected that such faculty membership constitutes a full-time obligation and that, with the exceptions explicitly permitted by University policies, outside activities must not interfere with the primary commitments to teaching, research and service. Outside activities must not distract significantly from the primary responsibilities and must not require such extensive absence as to cause employees to neglect employment obligations or become unavailable to students and colleagues. The University recommends that full-time faculty engage in no more than an average of eight (8) hours per week on outside activities.

Because a "conflict of interest" or "conflict of commitment" depends on the situation in which an individual is placed, rather than the character or actions of the individual, a conflict is not necessarily "bad" or prohibited. Some conflicts, however, present such a potential for a breach of one's duty to a particular employer, person, or entity that they must either be permitted with conditions, including a Management Plan with review and oversight by other institutional representatives, or prohibited.

## C. REPORTING REQUIREMENTS

All FAU employees possessing at least a .5 appointment at the University, other than student employees, OPS employees and graduate teaching assistants, and any University employee engaged in the design, conduct, or reporting of research regardless of FTE, full-time, or part-time status are required to complete an outside activity report in a form directed by the University on or before September 30 of each year (or within thirty (30) days of the commencement of employment with FAU if this occurs after September 30). If an employee has no information to disclose, a report must still be completed. Separate disclosures are also required for all sponsored projects as noted in Section D below.

If a change in the information presented occurs prior to the next reporting date, a new disclosure report must be submitted for approval. The disclosure and approval must occur prior to the commencement of a new activity or interest. If the activity or interest commences without disclosure and approval, and a conflict of interest or conflict of commitment is later determined, the employee may be asked to cease or modify the activity or divest itself of the financial interest. If the failure to report involves an employee engaged in the design, conduct, or reporting of research, they may be subject to other sanctions as set forth in Section F below.

Part-time, student, or OPS employees, including without limitation adjuncts and graduate teaching assistants, as well as volunteers, emeritus faculty, and affiliates, post-doctoral,

graduate and undergraduate students working on contracts or grants may also be required or asked to complete disclosures or may also voluntarily complete a disclosure if a potential conflict of interest exists.

The primary purpose of the disclosures required on the "Report of Outside Employment or Professional Activity" form is to identify those activities and interests that pose potential conflicts of interest, and/or conflicts of commitment. In those situations where an actual or potential conflict of interest or conflict of commitment exists, the activity or interest may be allowed after disclosure and the development of a Management Plan, or it may be disallowed.

All outside employment, compensated activity, and continuing business activity (including managerial interests or managerial positions) should be reported, including times during which the employee is on leave or has no active appointment (inclusive of summer or other off periods for 9-month appointments). Uncompensated activities and financial interests (including financial interests of an employee's spouse and children) may also need to be reported if they fall within any of the categories described below.

The following outside activities and financial interests are examples of those, whether compensated or uncompensated, domestic or foreign, that must be disclosed by employees with a reporting obligation:

- a) Outside activities in which there is more than an incidental use of university facilities, equipment, and/or services.
- b) Outside activities in which a university student or other university employee is directly or indirectly supervised or evaluated by the employee.
- c) Management, employment, consulting, and contractual activities with, or ownership interests 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 children of the employee, and for managerial interests, to relatives.
- d) Management, employment, consulting, and other contractual activities with, or ownership interest in, a business entity which competes with the University, including without limitation competition for grants, awards and contracts.
- e) Candidacy for public office.
- f) Required use of books, supplies, equipment, or other instructional resources at the University when they are created or published by the employee or by an entity in which the employee has a financial interest.
- g) Professional compensated activities, including, but not limited to, consulting, teaching at another domestic or foreign institution regardless of whether the employee has a current assignment, participating in an activity in which an honorarium in excess of travel expenses is to be received, and retention as an expert witness.
- h) Business activities, including service on the board of directors or other management interests or position.
- i) Any employment, contractual relationship, or financial interests of the employee which may create a continuing or recurring conflict between the employee's interests and the performance of the employee's public responsibilities and obligations, including time commitments. This includes any outside activity in which the employee is required to waive rights to intellectual property and any outside activity or financial interest with a

business entity which supports the employee's research or training program at the University.

- j) Outside activities and financial interests required to be reported under government contract and grant regulations.
- k) Outside activities with a domestic or foreign talent program.
- l) Outside activities that include the provision of paid or unpaid services, such as consulting, to a domestic or foreign entity.
- m) Outside activities that include affiliations with or appointments at domestic or foreign institutions or entities.
- n) Outside activities involving: (i) any research funded, directly or indirectly, by a domestic or foreign institution or entity, (ii) a research collaboration with scientists or researchers within or outside of the United States, or (iii) use of the University's intellectual property.
- o) Outside activities or financial interests which otherwise interfere with the employee's duties to the University or affect the integrity of the University. These duties include the employee's duties to students and the public clientele served by the faculty or staff member, the duty to maintain the freedom of scholarly inquiry and dissemination of knowledge, and the duty to protect the rights of the University and fellow employees and students to intellectual property developed by them as well as by the faculty or staff member. Only the University through the Vice President for Research or his or her designee may approve any waiver of university rights to intellectual property in connection with an outside activity.

Responsibility for disclosure rests with the individual faculty or staff member. Full disclosure and discussion of all potential and actual conflicts allows the University to address the issues involved and prevent problems arising for both the faculty or staff member and the University in the future. While the employee has the duty to disclose, review and oversight responsibility rests primarily with the chair, director, or supervisor, and the dean or vice president of the unit in which the faculty or staff member is employed. An employee must provide sufficient information to those with review and oversight responsibility to enable them to make an informed decision concerning the outside activity or financial interest.

#### D. REPORTING REQUIREMENTS RELATED TO SPONSORED PROJECTS

Federal conflict of interest laws and regulations require that the University manage, reduce, or eliminate any actual or potential conflicts of interest that may be presented by certain compensated outside activities and other financial interests of persons involved in sponsored research projects funded by the government. The primary purpose of the federal regulations is to prevent bias in the design, conduct, or reporting of funded research projects.

The University applies these federal conflict of interest laws and regulations to all funded research, regardless of funding source. These requirements are captured in the Division of Research [Financial Conflict of Interest \(FCOI\) Policy](#). Conflicts of interest relating to sponsored projects shall be reviewed and managed pursuant to the requirements of the FCOI Policy and the [Division of Research Financial Conflict of interest Review Process](#).

#### E. CONSIDERATIONS FOR OUTSIDE ACTIVITIES AND FINANCIAL INTERESTS

The University has declined to set forth rigid rules, but recognizes that there are conflict situations which must be prohibited, conflict situations which may be allowed with conditions and oversight, and outside activities and interests that are generally allowed. The guidelines that

follow are designed to assist faculty, administrative and professional staff, and other employees, as well as department chairpersons, directors, deans, and other supervisors, evaluate conflict of interest situations. Individual colleges and units may develop and implement more specific procedures and require additional information in furtherance of this policy.

Any outside activities or financial interests which are prohibited by state law, including without limitation the Florida Code of Ethics, cannot be allowed. The most significant of these prohibitions are those concerning financial interests, employment, and other contractual relationships with an entity doing business with the University. This prohibition generally would prohibit, for example, any transaction between the University and a company owned by an employee unless one of the exemptions set forth in the law applies. Similarly, a research contract between the University and a company cannot support the research of a faculty member who has a contractual relationship (such as a consulting arrangement) with, or a financial interest in, that company unless an exemption applies.

Also prohibited under the Florida Code of Ethics are those outside employment or contractual relationships which would create a "continuing or frequently recurring conflict" between the employee's private interest and the performance of his or her public duties or "that would impede the full and faithful discharge of his or her public duties." Thus, an employee employed to develop software in a given field for the University could not be employed to develop the same kind of software elsewhere. Such employment would create a "continuing or frequently recurring conflict." Outside activities or contractual relationships with a company that supports the research or training activities of an employee create such a conflict and, thus, are not allowed unless an exemption applies.

Moreover, outside activities or financial interests in a company that will be directly and significantly affected by the research activities of the faculty or staff member should only be permitted if they do not create a "continuing or recurring conflict." Similarly, outside activities or financial interests in a company involving students or employees of the University in any way evaluated, taught, or directed by the faculty or staff member at the University are strongly discouraged and should be avoided if at all possible.

Certain outside activities or financial interests are permissible by exemption in the Florida Code of Ethics. With regard to doing business with the University, for example, this includes an exemption for sole source purchases or transactions of under \$500 in a calendar year.

The Florida Code of Ethics also provides an exemption which allows a faculty (or staff) member to be a consultant or be otherwise employed by a company or have an ownership interest in a company that is licensing the faculty member's technology from the University. This exemption also allows a faculty member with an employment or contractual relationship with a business entity or an ownership interest in a business entity to be involved in work on a research contract between the University and the business entity. Such relationships are allowed, however, only with the prior review of the faculty or staff member's department and college and the final approval of the President and Chair of the Florida Atlantic University Board of Trustees. These exemptions are reported annually to the Florida Board of Governors. The procedures for requesting the research and license exemption are set forth in the [Intellectual Property Policy](#) within the Division of Research. In review of the request, the University's interests in protecting the educational progress of students, the integrity of research, the free flow of ideas, the appropriate evaluation of employees, and the use of university equipment and personnel will be examined closely. If the exemption is approved, the faculty or staff member's department and college unit must make significant commitments to the oversight process through an approved Management Plan.

In the case of textbooks and instructional materials, a faculty member or other instructor may only require students to buy textbooks or instructional materials in which he or she has authored or holds a financial interest in accordance with FAU policies and regulations, including without limitation [FAU Regulation 5.011 University Ethics](#), [FAU Regulation 3.004 Textbook and Instructional Materials Affordability](#), and the [Provost's Memorandum on Procedures for Selecting Textbooks for Affordability](#).

Recognizing that colleges and departments within the University have unique attributes, a unit may develop guidelines that will assist members of its faculty and staff to deal with the particular conflict situations that may arise with regard to their particular services and fields. All such guidelines must be approved by the dean or director of the unit involved and the Office of the Provost or the appropriate Vice President.

University direct-support organizations may have conflict of interest policies applicable to their directors, officers, and employees. University employees acting as directors or officers or providing services to the organization must disclose any financial interests in any business entity doing business with the direct support organization and must comply with the organization's conflict of interest policies in connection with any procurement or other business transactions with the organization.

Any non-incident use of university equipment, facilities or services with regard to an outside activity must be approved prior to the activity. In general, the use of these resources will be allowed only to the extent they do not interfere with university use, and a charge may be assessed.

Any employee engaging in outside activities must recognize that he or she is performing such activities as an individual and may not represent that he or she is acting on behalf of the University. For example, an employee may not use Florida Atlantic University letterhead or a Florida Atlantic University email address in conducting outside activities. The employee must take reasonable precautions to ensure that the outside employer or other recipient of services understands that the employee is engaging in the outside activity as a private citizen and not as an employee, agent, or spokesperson of the University.

Outside activities and interests that present potential conflicts may be allowed when conditions have been established through which any conflicts may be minimized. For example, a conflict situation may be allowed under a Management Plan with the faculty member which requires oversight in some instances by persons external to the faculty member's department or college. If a Management Plan cannot reasonably mitigate the conflict, the employee may choose to divest themselves of the activity or interest.

In general, the majority of outside activities are allowed if they do not interfere with the employee's performance of his or her University obligations. Determining whether a particular situation involves a conflict of interest or conflict of commitment is dependent on reviewing all the facts of the specific situation, which underscores the importance of disclosure and discussion of possible conflicts.

## F. REVIEW PROCEDURES

The following persons must review and approve outside activities and financial interests required to be disclosed by this policy: (1) chair or director; (2) dean, if applicable; (3) Vice President for Research or designee, if intellectual property rights are to be waived; and (4) Provost or Vice President or designee. Employees engaged in the design, conduct, or reporting of research must receive a determination from the Chief Compliance and Ethics Officer, or

designee, that their outside activity or financial interest does not affect the integrity of the University. If there are any questions or concerns with regard to a particular disclosure, a conference is encouraged between the faculty or staff member and his or her chair or other immediate supervisor.

At any stage in the review and approval process, if any individual required for approval contemplates or desires to deny approval of the outside activity, the matter may be referred to the COI Review Committee for review and feedback before any such decision is made. Once feedback is received from the COI Review Committee, if the disclosed outside activity or interest is disallowed, an in-unit faculty member may file an expedited grievance through the collective bargaining agreement. All other faculty members and employees may file a grievance pursuant to FAU Regulation 5.009.

G. SANCTIONS

The failure to report outside activities and financial interests, engaging in the activities or holding the financial interests without the University's approval, and/or failing to follow any conditions imposed pursuant to the University's approval of such activities are grounds for disciplinary action, including without limitation, disallowance or limiting outside activities, changes in assignment, limitations on research activities, fines, reduction in pay, demotion, written reprimand, suspension without pay, and termination for cause. Moreover, a violation of the Florida Code of Ethics or other applicable laws may be grounds for various penalties imposed under law. An employee engaged in the design, conduct, or reporting of research who has failed to disclose any outside activity or financial interest and receive a determination that the outside activity or financial interest does not affect the integrity of the University, shall be suspended without pay pending the outcome of an investigation which shall not exceed 60 days (or as otherwise required by law), and which may result in the termination of the employee.

**INITIATING AUTHORITIES:** (1) Provost and (2) Vice President, Administrative Affairs

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POLICY APPROVAL  
(For use by the Office of the President)

Policy Number:   8.3  

*Initiating Authority*

Signature: \_\_\_\_\_

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

Name: \_\_\_\_\_

*Initiating Authority*

Signature: \_\_\_\_\_

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

Name: \_\_\_\_\_

*Policies and Procedures  
Review Committee Chair*

Signature: \_\_\_\_\_

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

Name: \_\_\_\_\_

*President*

Signature: \_\_\_\_\_

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

Name: \_\_\_\_\_

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Executed signature pages are available in the Office of Compliance