



FLORIDA ATLANTIC UNIVERSITY

Division of Research

## **Request for Exemption to Conduct Business With FAU Florida Statute 112.313(12)(h)**

Florida Statute 112.313 prohibits contractual relationships that create a conflict of interest between state employees and state agencies such as Florida Atlantic University (FAU). That includes ownership of, or consultation for, a company, even if it supports FAU-related research or teaching efforts. The statute also applies to employees starting a new company or licensing FAU's intellectual property per the FAU Intellectual Property Policy.

In order to facilitate technology transfer and related research, the statute does permit exemptions to conduct business with the university in certain situations. To request an exemption, FAU requires employees to complete this form, which discloses the outside activities and business interests of the individual.

The following pages provide background information on the statute, instructions for completing the form, the Request for Exemption to Conduct Business with FAU form and an overview of the review process following completion of the form. For additional information, contact the Office of Technology Development at **561-299-6836** or **techdevelop@fau.edu**.

## Background

Pursuant to Section 112.313 of the Florida Code of Ethics for Public Officers and Employees, a public officer or employee of Florida Atlantic University (FAU) is not permitted to have an ownership interest in, or be employed by (as a consultant or otherwise), a business entity that contracts with FAU for the purchasing, renting or leasing of any realty, goods or services, including, but not limited to, supporting the employee's research or teaching activities.

Similarly, a FAU employee may not have an ownership interest in, or be employed by (as a consultant or otherwise), a business entity licensing intellectual property from FAU or the Florida Atlantic University Research Corporation (FAURC) per the FAU Intellectual Property Policy.

However, in order to facilitate research and the transfer of technology, the Florida Legislature permits an exemption to these general prohibitions within certain contexts after approval by the president of the university and the chair of the university's Board of Trustees. Details of this exemption are in subsection (12)(h) of section 112.313, Florida Statutes.

To request an exemption, employees must submit full disclosure of the outside activities and interests involved. This disclosure is made through the completion of the form called Request for Exemption to Conduct Business with FAU. Submission of the request form is required in order to allow a full evaluation of the nature and extent of the proposed relationship between FAU and the employee's business entity. In evaluating the request, FAU will thoroughly assess any effect the proposed relationship may have on FAU's mission of promoting academic and personal development through excellence and innovation in teaching, research, public engagement and distinctive scientific and cultural alliances.

A monitoring plan to mitigate the conflict(s) of interest presented by the proposed relationship between FAU and the employee's business entity will also be created. Such plan will require the approval of the FAU employee, as well as their department chair or director and dean or applicable vice president. The FAU employee and their department chair or director will be responsible for the implementation of the monitoring plan. Such monitoring may include annual reviews and routine disclosures and/or confirmations of the plan's applicability and effectiveness. During an annual review of the monitoring plan, the FAU employee will obtain written confirmation from their dean or vice president to ensure that the relationship between the business entity and FAU has not exceeded the parameters as provided in the approved request.

If the request is granted, it will become effective on the date signed and approved by the chair of the university's Board of Trustees for the term requested. The exemption will cover only the proposed business relationship disclosed in the request. Any change which may affect the relationship between FAU and the employee's business entity requires immediate disclosure to the employee's department chair or director. The university is required to submit all exemptions approved during the preceding year to the governor and the Florida legislature annually by March 1.

## Process

1. If a FAU employee:
  - a. Plans to do business or contract with FAU in the context of sponsoring research or licensing intellectual property pursuant to Fla. Stat. 1004.22 or 1004.23, prior to engaging in the activity the employee must request an exemption per Fla. Stat. 112.313(12)(h) and submit the Request for Exemption to Conduct Business with FAU form and monitoring plan and receive approval as stated herein.
  - b. Is already doing business or contracting with FAU in the context of sponsoring research or licensing intellectual property pursuant to Fla. Stat. 1004.22 or 1004.23, the employee must immediately request an exemption per Fla. Stat. 112.313(12)(h) and submit the Request for Exemption to Conduct Business with FAU form and monitoring plan and receive approval as stated herein.
2. The FAU employee completes the request form and monitoring plan.
3. The FAU employee routes the form for signature by the FAU employee's department chair or director (or designee), dean or vice president (or designee) and the Office of the Provost (if employee is a faculty member).
4. The FAU employee submits the completed form and monitoring plan to the Office of Technology Development.
5. The Office of Technology Development submits the form to the Statute Exemption Review Committee consisting of representatives from the Office of Compliance & Ethics, Office of the Provost, Division of Financial Affairs, Office of Technology Development, Office of General Counsel, Office of Research Integrity and Office of Sponsored Programs. The purpose of the committee is to review the form and monitoring plan and provide input.
6. The Statute Exemption Review Committee reviews the form and monitoring plan. If additional information is needed, the Office of Technology Development contacts the FAU employee.
7. The Office of Technology Development presents the form and monitoring plan with input from the committee to the Office of the Vice President for Research for approval or disapproval.
8. The decision of the Office of the Vice President for Research is communicated by the Office of Technology Development to the FAU employee.
9. The Office of the Vice President for Research forwards the approved form and monitoring plan to the Office of the President for signature.
10. Once approved by the Office of the President, the Office of the Vice President for Research forwards the approved form and monitoring plan to the chair of the Board of Trustees for signature.

11. The signed form and monitoring plan are returned by the Office of the Vice President for Research to the Office of Technology Development.
12. The Office of Technology Development notifies the FAU employee of the final decision by the chair of the Board of Trustees.
13. A report of all approved requests is submitted by the Office of Technology Development to the Office of the Vice President for Research no later than January 31<sup>st</sup> for the previous calendar year.
14. The Office of the Vice President for Research forwards the report to the chair of the Board of Trustees for submission to the governor of Florida and the Florida Legislature by March 1<sup>st</sup> each year.

## Instructions

1. Complete all fields in \_\_\_\_\_ and sign the form. If a field is not applicable, please state N/A.
2. Complete \_\_\_\_\_ and have your direct supervisor review and sign the form.
3. Obtain the appropriate signature(s) for level 1 on the review and approval/disapproval page. Do not obtain signatures for levels 2 through 4.
4. Send the partially executed form to the Office of Technology Development at **techdevelop@fau.edu**.
5. The Office of Technology Development will return a fully executed form to you upon approval.



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## Request for Exemption to Conduct Business With FAU Florida Statute 112.313(12)(h)

### Section I: Your Profile and Responsibilities to the University

Name of Employee: \_\_\_\_\_

Department/Center/Institute: \_\_\_\_\_

College/Area: \_\_\_\_\_

Campus Address: \_\_\_\_\_

Campus Phone: \_\_\_\_\_

Campus E-mail Address: \_\_\_\_\_

Academic Rank: \_\_\_\_\_  
(*Professor, etc.*)

Tenure Status: \_\_\_\_\_

Type of Appointment: \_\_\_\_\_  
(*9 or 12 month*)

List all positions currently held at FAU:

**1. Describe your role and responsibilities at FAU:**

*(select and describe all that apply or select N/A if the activity is not applicable)*

**Yes   N/A   Description:**

FAU Teaching/Instruction:

FAU Research:  
*(including area of research)*

FAU Service/Administrative:

FAU Clinical:

FAU Other:

**2. List FAU employees and students you supervise/advise:**

**Yes   N/A**

a. Do you supervise any FAU employees (not including students)?:

If Yes, list employees you supervise (with Z numbers):

**Yes   N/A**

b. Do you supervise any FAU students?:

If Yes, list students you supervise (with Z numbers):

## Section II: Reason for Exemption

### 1. Describe all of your activities and interests in the Entity:

a. Consulting or Employment Agreement with the Entity:

Yes N/A

If Yes, please explain:

b. Ownership Interest or Equity in the Entity:

Yes (if yes, list percentage): \_\_\_\_\_

N/A

c. Leadership or Managerial Positions:

*(list all positions and/or describe under "Other")*

Self:

CEO

President

CFO

CTO

Member, Board of Directors

Scientific Advisor

Director of Research

Officer: \_\_\_\_\_

Describe: \_\_\_\_\_

Other: \_\_\_\_\_

Describe: \_\_\_\_\_

Immediate Family Member(s):

Identify family member(s) holding leadership or managerial position(s) in the Entity:

Spouse: \_\_\_\_\_ Child: \_\_\_\_\_

Another member of my household: \_\_\_\_\_

Select Leadership or managerial position(s) assigned to such family member(s) and identify member (if more than one member is engaged with Entity, please describe in the comments sections):

CEO

President

CFO

CTO

Member, Board of Directors

Scientific Advisor

Director of Research

Officer: \_\_\_\_\_

Describe: \_\_\_\_\_

Other: \_\_\_\_\_

Describe: \_\_\_\_\_

Other Comments:



**2. Do you have any active or potential FAU intellectual property license agreement(s) with the Entity? (including anticipated license agreements that may be executed within the reporting period):**

Yes (if yes, please explain):

No

**3. Are there any current research proposals (i.e. pending, under review), or agreements (executed or under negotiation) between the Entity and FAU or FAURC triggering this request?**

Yes (if yes, please explain):

No

**4. Are there, or do you anticipate, any other types of agreements currently formalized (on your behalf or associated with your person) between the Entity and FAU, FAURC, and/or any of FAU's Direct Support Organizations? (Including for the use of FAU equipment, services, or personnel)**

Yes (if yes, please explain):

No

## Section III: Information About Entity

### 1. General Information:

Name of Entity: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Executing Official: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Website Address: \_\_\_\_\_

**2. Entity Type:**

General Partnership	Sole Proprietorship	LLC
Corporation	S Corp	

**3. Parent Entity:**

Yes (if yes, please explain):

N/A

**4. State of Incorporation:**

Florida

Other (if other, please explain):

**5. Are you listed as an officer in the incorporation document?**

Yes (if yes, please explain):

No

**6. Is there any pending litigation against the Entity?**

Yes

No

**7. Is any person (including spouse and children) living in the same household as you involved with the Entity?**

Yes

No

**8. Describe the overall activities/business pursued by the Entity per its business plan:**

**9. Describe the purpose and intended relationship between the Entity and FAU:**

## **Section IV: Employee Responsibilities to the Entity**

**1. Describe how your Entity responsibilities differ from your responsibilities at FAU:**

a. At the Entity:

b. At FAU:

**2. Outline potential conflicts and benefits to FAU of granting this Request for Exemption:**

a. Potential conflicts:

b. Benefits to FAU:

## Section V: Employee Certification and Signature

I (Employee/Discloser) understand and agree that all my activities with the Entity are carried out in my individual capacity and not as a representative of Florida Atlantic University (FAU) or Florida Atlantic University Research Corporation (FAURC).

By signing below, I (Employee/Discloser) understand and agree that, if my exemption and activities are granted, I shall abide by all pertinent provisions of Florida Statute 112.313, and any other conditions, including any monitoring plans, imposed for the allowance of these outside activities.

I (Employee/Discloser) further agree and understand that violation of this agreement is grounds for disciplinary action, withdrawing the allowance of my outside activities, withdrawing the exemption and terminating any agreement between FAU or FAURC and the Entity that has been allowed under this Request.

Employee/ Discloser's Signature: \_\_\_\_\_

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

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

Z Number: \_\_\_\_\_

Number of years for which this exemption is sought: \_\_\_\_\_  
(may not exceed 5 years)

## **Section VI: Monitoring Plan**

### **1. Reason for Monitoring Plan**

This Monitoring Plan addresses conflicts of interest arising out of \_\_\_\_\_'s (hereinafter "Employee") relationship with \_\_\_\_\_ (hereinafter "Entity").

### **2. Term of Monitoring Plan**

This Monitoring Plan shall be effective for the same period approved for the Request for Exemption to Conduct Business with FAU.

### **3. Persons Responsible for Monitoring Plan**

#### **a. Department Chair or Director**

The individual listed below is responsible for the implementation and monitoring of the Monitoring Plan.

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

Title: \_\_\_\_\_

Campus Phone: \_\_\_\_\_

Campus E-Mail: \_\_\_\_\_

#### **b. Dean or Vice President**

The individual listed below is responsible for conducting an annual review of the Monitoring Plan.

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

Title: \_\_\_\_\_

Campus Phone: \_\_\_\_\_

Campus E-Mail: \_\_\_\_\_

**c. University Representative**

Questions regarding the Monitoring Plan may also be directed to the University Representative listed below.

**Name:** Dana Vouglitois

**Title:** Senior Associate Director, Office of Technology Development

**Campus Phone:** 561-299-6836

**Campus E-Mail:** [dvouglitois@fau.edu](mailto:dvouglitois@fau.edu)

**4. Monitoring of Conflict(s) of Interest**

The parameters set forth in this Section 4 are the requirements that Employee must follow in managing the conflict(s) of interest at issue. These requirements define the parameters necessary to effectively manage the conflict(s) pursuant to Federal, State and University regulations. Many of the conditions set forth in this section are restatements of rules, regulations or statutes to which Employee is already subject as a University employee, but are important to note given the conflict(s) of interest involved. Additional requirements are included, as deemed appropriate. The Employee, Department Chair or Director and Dean or Vice President should review and discuss all the conditions of this Monitoring Plan.

- a. Integrity of Research and Education Programs.** Employee's primary professional responsibility is to the University. Teaching and research, based on the highest standards of scientific objectivity, are paramount to fulfilling that responsibility as well as adherence to the Code of Ethics as established under Part III of Chapter 112, Florida Statutes.
- b. University Rights to Intellectual Property.** Employee agrees not to take any action that would in any way limit the University's rights to intellectual property developed by Employee or any other University personnel or students. The Employee will continue to work diligently with the University to assure that publications of research or work performed are done in such a manner that the intellectual property rights of the University and those associated with the University are maintained. Employee will fulfill all requirements of the University's Intellectual Property Policy.
- c. Dissemination of Research Results.** Publication of research results is the cornerstone of the existence of the University's program(s) that may be associated with Employee. Employee will assure that publications are accomplished in a manner that protects the intellectual property rights of the University and will assure that graduate students are allowed to present, defend or publish theses and dissertations in a timely manner.

**d. Use of University Equipment, Facilities, Services or Personnel in Outside Activity.** University equipment, facilities, services and personnel are available only for the use and benefit of the University. Therefore, Employee agrees to not use any University equipment, facilities, services, or personnel in the course of any responsibilities they have pursuant to their activities with Entity. Incidental use of equipment, such as the telephone, fax machines, and computer resources by the Employee for communication purposes may be permitted. If in the future Employee desires to use University equipment, facilities, services, or personnel, they must receive approval through the appropriate University departments and representatives. Such use must be only on a non-interference basis, may require compensation to the University, and must be justified by the uniqueness of the of the equipment or services. Authorized use of equipment, facilities, services or personnel by Entity pursuant to an agreement between Entity and University is not subject to this provision.

**e. No Use of University Name.** Employee may not use the name of the University in connection with Employee's activities with the Entity without the express written permission of the University Representative with regard to each instance of use. Such written approval is required in addition to any approvals required under any agreement between the Entity and the University. Additional conditions may be imposed upon such as the requirement that the Entity include a disclaimer concerning the University in connection with the use of the name.

Modifications to Section 5.e (if any): \_\_\_\_\_

**f. Disclosure to University Personnel and Students.** Upon approval of this Monitoring Plan, Employee will disclose Employee's interest in the Entity to all University personnel and/or students under Employee's direct supervision. Employee will inform their Department Chair or Director whenever any changes to University personnel or students under Employee's direct supervision are made that impact this Monitoring Plan.

Modifications to Section 5.f (if any): \_\_\_\_\_

**g. Disclosure in Proposals and Publications.** Appropriate disclosures of Employee's interests in, or relationship to, the Entity will be made in all reporting of work or research which is funded by the Entity, and in all reporting of work or research that may favorably or unfavorably affect any financial interests Employee derives from the Entity.

Modifications to Section 5.g (if any): \_\_\_\_\_

- h. Human Subject Research.** If Employee is conducting research involving human subjects and the outcome of that research may favorably or unfavorably affect any financial interest Employee derives from the Entity, Employee shall fully disclose Employee's interest in, or relationship to, the Entity to the Institutional Review Board (IRB) and follow any requirements or limitation placed on Employee or the research imposed by the IRB. In addition, Employee will disclose Employee's interest in, or relationship to, the Entity in the IRB-approved informed consent to be provided to each human subject involved in the research.

Modifications to Section 5.h (if any): \_\_\_\_\_

- i. Entity's Use of University Personnel and Students.** Employee agrees to notify University Representative whenever Employee becomes aware that Entity is employing any students or other University employees, even on a part-time or voluntary basis.

Modifications to Section 5.i (if any): \_\_\_\_\_

- j. Confidentiality of Information.** Employee will not disclose or provide any University information or work products, including research results, not available to the general public to Entity except under the terms of an applicable agreement between the University and the Entity.

Modifications to Section 5.j (if any): \_\_\_\_\_

- k. No Competition with University.** Employee will not process any research contracts or grants through Entity if those grants may otherwise have been processed through the University. Employee may apply for such grants or contracts through Entity only if University is not eligible to pursue them.

Modifications to Section 5.k(if any): \_\_\_\_\_

- l. Avoidance of Contractual Conflicts.** In order to avoid conflict situations, Employee agrees not to participate in any negotiations concerning agreements between the University and the Entity except to provide information concerning Employee's activities at the University or Entity in connection with proposed agreements.

Modifications to Section 5.l (if any): \_\_\_\_\_

- m. Annual Review.** Employee must review this Monitoring Plan annually with their Dean or Vice President to ensure that the relationship between the Entity and the University has not exceeded the parameters as provided in the approved Request for Exemption.

Modifications to Section 5.m (if any): \_\_\_\_\_



- n. Changes to Request for Exemption.** Employee will promptly report to their Department Chair or Director any changes to the information disclosed by Employee in the Request for Exemption including changes in the Employee's relationship to the Entity, significant changes in Employee's responsibilities at the University, and new sources of funding for research in areas in which the Entity also has an interest. The Department Chair or Director must also be informed of any additional outside activities or financial interests required to be reported under applicable University policies. This disclosure will allow the Department Chair or Director to evaluate whether any changes to this Monitoring Plan or the Employee's Request for Exemption are necessary. The Department Chair or Director shall confer with the University Representative, as needed, in making a determination of whether any changes are required. This reporting is in addition to any other disclosures or reporting that is required pursuant to applicable University policies.

Modifications to Section 5.n (if any): \_\_\_\_\_

- o. Other Conditions.** Other parameters necessary to effectively manage the conflict(s) are set forth below:

- p. Compliance with University Policies.** Employee must comply in all respects with University policy, which includes filing all required Report of Outside Employment or Professional Activity forms and Significant Financial Interest Disclosure forms, following all federal reporting requirements, as applicable, and filing new requests for exemption as needed.

## Review and Approval/Disapproval:

**Level 1:**

Reviewer	Reviewer's Signature	Approve	Disapprove	Date
Department Chair or Director (or designee)	_____			_____
Dean or Vice President (or designee)	_____			_____
Provost	_____			_____

**Level 2:**

	Approve	Disapprove	Date Signed:
Signature: _____ <i>Vice President for Research</i>			_____

**Level 3:**

	Approve	Disapprove	Date Signed:
Signature: _____ <i>President, Florida Atlantic University</i>			_____

**Level 4:**

	Approve	Disapprove	**Date Signed:
Signature: _____ <i>Chair, Florida Atlantic University Board of Trustees</i>			_____

*\*\*Approval is effective upon this date of signing through the end of the last reporting year period covered, per the number of years requested under Page 12 of this form.*