



II-3.10(A) UNIVERSITY OF MARYLAND POLICY ON CONFLICT OF INTEREST AND CONFLICT OF COMMITMENT

(Approved by the President May 20, 2003; Amended and approved on an interim basis by the President February 4, 2021, pending University Senate Action)

I. Purpose

The mission of the University of Maryland, College Park (“University”) includes advancement of knowledge, support of the scholarly professions, and active participation in the cultural, technological, commercial, public policy, and social life of our communities. This mission is advanced when members of the University forge links outside the University as scholars, artists, consultants, participants in research and development ventures, advisors to government entities, and in other capacities that relate to their professional expertise. The University has strongly encouraged the development of such links in the past and will continue to do so in the future. The University recognizes, however, that these very positive interactions create the occasion for real, potential, or apparent conflicts of interest and commitment, any of which may result in legal or reputational harm to the individual and/or the University.

The intent of this policy is, in part, to provide guidance that will enable these extra-university liaisons to continue while avoiding situations that harm the individual and/or the University through real or perceived ethical, legal, or financial conflicts. Although such conflicts arise most often in connection when University personnel, including faculty, staff, and graduate research assistants (each an “Employee” and together “Employees”) engage in activities outside the University, this policy and procedures applies to all activities of Employees.

This Conflict of Interest and Conflict of Commitment Policy implements Board of Regents’ policies on Professional Commitment of Faculty (II-3.10) and Conflicts of Interest in Research or Development (III- 1.11). This policy is required by State Ethics Law¹ and failure to comply with this policy may be a violation of State law.

II. Overview

This policy applies to all University Employees. The University is concerned with two broad kinds of conflict:

1. **Conflicts of interest (“COI”)**, which typically involve potential financial gain or personal benefit to an Employee or related individuals or entities; and
2. **Conflicts of commitment**, which typically arise when otherwise acceptable outside activities may compromise the fulfillment of an Employee’s basic job responsibilities to the University.

¹ See Maryland Code Annotated, General Provisions Article, § 5-525.

The University requires that its officers and Employees acting on the University's behalf disclose actual or potential ethical, legal, financial, or other conflicts of interest and commitment. Further, working with supervisors and University leadership, either these Employees must find a means to resolve or to manage² any conflicts, or they must not participate in the activities that give rise to the conflicts.

Situations where such conflicts may arise can be sufficiently complex that opinions differ as to whether conflicts actually exist, are likely to arise, or appear to exist. Accordingly, the University emphasizes two elements essential to the effective implementation of this policy:

1. **Full and prompt disclosure by the Employee** to an appropriate supervisor and, if a conflict of interest, to the COI Committee, of activities and interests outside the University or outside the unit. This disclosure enables potential conflicts to be reviewed and, if appropriate, properly managed; and
2. **Availability of University guidance** to Employees and to supervisors, through which the University provides continuing and relevant advice and clarification where the existence of a conflict of interest is uncertain, or where a conflict of interest – real, potential, or apparent – must be managed.

Personal responsibility, integrity, and high ethical standards are the principal factors in avoiding conflicts of interest, and the University expects that all officers and Employees will conduct their activities in a manner that reflects positively on themselves, their professions, and the University without need for specific criteria or rules of conduct.

Some situations, however, involve unique knowledge and understanding or are sufficiently complex that judgments may differ on whether or not there is a conflict of interest and/or conflict of commitment. Individuals of the highest integrity may, therefore, unknowingly place themselves in situations where real or perceived conflicts of interest exist. Liaison between the Unit head (typically defined as the chair or director in an academic department or a similar official in a non-academic unit, unless a different individual is designated by proper authority) and Employees is the principal means of communication and disclosure in matters involving professional activities and is the principal means by which conflicts of commitment should be addressed and resolved; conflicts of interest require disclosure to both the Unit Head and the COI Committee.

Dishonesty is a very serious matter that cannot be condoned and will be dealt with promptly in the following or related circumstances: stealing; lying about matters connected with work; falsifying records; making unauthorized personal use of University or government property; doing unauthorized private work on University time; and giving or receiving a bribe in any form. Such dishonesty is grounds for serious disciplinary action, up to and including termination of employment.

² To “manage” a conflict means to set procedures in place that will serve to prevent the harm that could otherwise arise from the conflict.

III. Conflicts of Interest

The term “conflict of interest” denotes situations in which members of the University community are in a position to gain, or appear to gain, financial advantage or personal benefit (broadly construed) arising from their University positions, either through outside professional activities or through their research, administrative, or educational actions or decisions at the University. Sometimes these conflicts of interest can be managed, and sometimes they cannot be managed and must be avoided; regardless, conflicts of interest must always be recognized, disclosed, and appropriately addressed.

Because University Employees are also State employees, a conflict of interest may also arise in the context of State Ethics Law³, which, among other things, generally restricts the interests and relationships that a University Employee may have with any external entity that does or seeks to do business with the University. However, in recognition of the University’s role in promoting economic and technological development in the State, certain relationships or interests that would otherwise violate State Ethics Law (and/or University policies) may be permitted if they involve entities engaged in or having an interest in the outcome of research or development. In order to qualify for an exemption from the State Ethics Law, a relationship, interest or other activity must be disclosed, reviewed, and approved in accordance with the University’s Conflict of Interest and Conflict of Commitment Procedures⁴.

IV. Conflicts of Commitment

The term “conflict of commitment” denotes situations that arise when outside professional activities or other significant commitments, whether outside or within the University, interfere with an Employee’s (faculty or staff) meeting his or her primary job responsibilities to the University.

For Faculty: As part of those responsibilities, full-time faculty at the rank of Assistant Professor, Associate Professor, and Professor ordinarily will be engaged regularly and effectively in undergraduate and graduate teaching and advising; will be engaged in high quality research,

³ The conflict of interest provisions of Maryland State Ethics Law are codified in Maryland Code Annotated, General Provisions Article, Title 5, as amended from time to time. (*To find this online, go to <http://www.lexisnexis.com/hottopics/mdcode/>.*) Among other things, State Ethics Law generally prohibits University Employees from having financial interests in, or employment relationships (including consulting) with, entities under the authority of the University or entities that have or are negotiating contracts or subcontracts with the University. Other employment relationships (including consulting) prohibited under State Ethics Law include those that could impair the impartiality or independent judgment of the Employee and those that involve an entity that is a party to a State contract (greater than \$1000) if the Employee’s duties include matters that substantially relate to the subject matter of the contract. State Ethics Law also contains other provisions that limit or prohibit State employees from participating in matters in which they (or certain family members or business entities) have an interest; soliciting and accepting gifts, including payment of travel and lodging expenses; using the prestige of their office or confidential information for private gain; and representing parties in State matters for contingent compensation.

⁴ The State Ethics Law that exempts institutions of higher education from certain conflict of interest provisions so long as those institutions have conflict of interest policies in place is codified at Maryland Code Annotated, General Provisions Article, § 5-525(e). (*To find this online, go to <http://www.lexisnexis.com/hottopics/mdcode/>.*)

scholarship, and creative activity; and will be committed to service in the interests of the University, the profession, and the community. Therefore, the University generally expects that a faculty member in these ranks will spend a significant part of their time physically at, and actively involved in academic activities at, the University. The University may grant exceptions in particular cases as determined by agreement between the faculty member and their Unit Head. Part-time faculty and faculty in other ranks have prescribed domains of job responsibility. Professional activities outside their specific scopes of work should not interfere with their ability to meet their University responsibilities.

Faculty members are continually called upon to judge the quality of work of students, staff, and other faculty members (“Students and Colleagues”). Thus, a faculty member should not involve their Students and Colleagues in the faculty member’s external activities; such involvement may impact the faculty members’ judgment of their Students and Colleagues.

In summary, while the quality of a faculty member’s contributions may be enhanced by interaction with industry, business, government, and other institutions of our society, these interactions can also lead to conflicts of interest or conflicts of commitment. Therefore, the faculty member and their Unit Head must determine (a) the appropriate balance of University and external activities; and (b) whether it is appropriate to involve a faculty member’s Students and Colleagues in these external activities.

For Staff and Other Non-Faculty Employees: Corresponding cautions are relevant for University staff and other Employees. Staff members have prescribed domains of job responsibility, defined and evaluated through the formal performance review process. Outside activities beyond the Employee’s scope of work, whether professional service or personal consulting, should not interfere with the staff member’s ability to meet their job responsibilities.

V. Disclosure of Both Conflicts of Interest and Conflicts of Commitment

A. Methods of Disclosure. University Employees are required to disclose actual, apparent or potential conflicts of interest or conflicts of commitment in three ways:

1. To their Unit Heads, as potential conflicts arise and preferably before participating in the activity;
2. For Employees who are faculty members or exempt staff, as part of the annual summary of such activities (e.g., the outside professional activities report [OPA]); and
3. As part of the proposal process for sponsored research awards. The Principal Investigator, Co-Investigator, and senior personnel (if required by the sponsor) must certify that no conflicts exist in the routing certification process and as required by the sponsor in sponsored research proposals.

Generally, further action is required only in cases where conflict—real, potential, or apparent—are identified through administrative review.

B. Disclosure and Consultation

University Employees are required to keep their Unit Heads informed, in adequate detail, about all outside professional activities, service on external committees/boards, and other significant activities unrelated to their core University responsibilities. Employees are strongly encouraged to consult with their Unit Head prior to committing to an outside professional activity.

Furthermore, University Employees are required to discuss with their Unit Heads any assumption of new or expanded professional outside activities, including patent arrangements, before entering an agreement to undertake those activities. This is particularly true of external activities (e.g., direct and active management of outside business entities) that may conflict with the requirement that the primary loyalty of a full-time faculty member be, at all times, to the University; that may be incompatible with a faculty member's ability to meet the full range of their obligations to the University; or that may otherwise constitute conflicts of interest or conflicts of commitment.

Whenever there is reason to believe a relationship or situation may involve real, potential, or apparent conflicts of interest or commitment, University Employees and their Unit Heads are obliged to initiate the procedures outlined in Conflict of Interest and Conflict of Commitment Procedures that follow this policy. All conflicts of interest must be satisfactorily managed or eliminated prior to the University's expenditure of any funds under an award for any sponsored project affected by the conflict of interest.

C. Annual Report on Outside Professional Activities

Each University Employee who is a faculty member or exempt staff must complete an Annual Report on Outside Professional Activities ("OPA"). The purpose of the annual OPA report is to maintain a continuing picture of such activities and to identify situations that could lead to potential or apparent conflicts of interest and/or commitment.

The OPA requires the following:

- Information about a University Employee's involvement with outside entities, including the relationship between the Employee and the company and a description of any financial interest or management responsibility the Employee has in the company. If a University Employee is providing consulting services to a company, the Employee is not required to disclose the amount or rate of compensation they receive from the company. The University Employee should avoid including any company-confidential information in the brief description of the nature of the work.
- Information about a University Employee's outside professional activities, whether compensated or not, including estimates of the Employee's amount of work performed and/or time commitment to the entity. Only those activities that are connected with the professional expertise of the individual are relevant, and only those need be included with one exception: All activities of the Employee involving a foreign government or foreign entity should be disclosed.

- A statement signed by the University Employee, attesting the Employee has read and understood this UMD Policy on Conflict of Interest and Conflict of Commitment and is in compliance with the policy. An Employee with a disclosed conflict of interest will be considered compliant with this Policy if the COI Committee determine a conflict did not exist or if the Employee is compliant with a conflict management plan approved by the COI Committee.

VI. Role of the Unit Head

As stated above, the Unit Head is normally the chair or director in an academic department or a similar official in a non-academic unit, unless a different individual is designated by the University. Unit Heads are responsible for ensuring that members of the unit are familiar with University's policies and procedures regarding outside professional activities, conflicts of interest, and conflicts of commitment. The role of Unit Heads with regard to such matters further includes the following:

- The Unit Head, in consultation with the unit's faculty and with the approval of the Dean or next level administrator and the COI Committee, determines guidelines for what the unit considers to be a significant outside activity with the potential to give rise to conflicts that must be routinely disclosed and managed. The Unit Head must remain informed about the outside professional activities of members of the unit and must review the annual OPA for each unit Employee. The Unit Head is responsible for monitoring the level of outside activities for appropriateness relative to the mission of the unit and for compliance with this Policy and its related procedures.
- The Unit is knowledgeable about the types of activities that may lead to actual or apparent conflicts and, in consultation with the Dean's office and the COI Committee, advises unit Employees so that they may avoid conflicts of interest and commitment or similar situations that may adversely affect the University;
- The Unit Head seeks guidance from University administrators and/or the COI Committee when the Unit Head is unsure as to whether a conflict exists. The Unit Head ensures that unit Employees initiate a Conflict of Interest Disclosure when appropriate, and the Unit Head reviews the disclosure form. A University Employee should submit a Conflict of Interest Disclosure to the Unit Head whenever an Employee, Unit Head, Dean or other supervisor, or University administrator has reason to believe an activity, relationship, or other situation may involve a real, potential, or apparent conflict of interest in research or development as defined in the procedures that follow this policy.

VII. Additional Standards for Outside Professional Activities

Outside professional activities are generally permitted as long as they do not result in conflicts of interest or conflicts of commitment. However, in accordance with Board of Regents and University policies, University Employees are expected to comply with the following additional standards relating to these outside professional activities.

- University Employees may not receive payment for consulting or professional service rendered within the University or to another University System of Maryland institution or State agency. Exceptions to this policy must be approved in advance, in writing, by the Unit Head and the University President. Payment for work on University contracts or grants will be approved only in unusual or exceptional circumstances. (Payment for teaching at University of Maryland Global Campus is allowed, however.)
- University Employees are permitted to use certain limited University resources in connection with consulting or other outside activities, but must notify their Unit Head whenever outside activities involve University resources beyond use of office space, University telephone, or University-issued computer. Use of University resources beyond office space, telephone, or computer is not permitted unless the Unit Head provides prior written consent, and the Employee makes prior arrangements to reimburse the University (including specification of costs and time frame) for use of the University's resources. University resources that require the Unit Head's prior written approval include but are not necessarily limited to laboratory space, University Employees, University students, and specialized University equipment.
- University Employees may not, in any way, claim or otherwise convey that the University endorses any recommendations or results of a University Employee's outside activities.
- University Employees may not enter into any agreement that conflicts with University or Board of Regents policies, including policies on intellectual property, without the written waiver or consent of the Chancellor and/or President, as appropriate.

VIII. Intellectual Property Licensing Revenue

Statement of Principle: It is a conflict of interest for an Employee of the University (faculty, student, staff) to receive revenue on intellectual property on which they are the creator, co-creator, inventor or co-inventor, where the Employee also has a financial interest in a commercial entity that has licensed that intellectual property from the University.

In these situations, the University Employee who has a conflict of interest may choose one of the two following options or UM Ventures may provide additional options depending on the circumstances:

1. To accept the revenue payment from the University, and relinquish the position in the commercial entity (i.e., company, partnership, etc.); or
2. To forgo the revenue payment from the University and retain the position in the commercial enterprise.

University of Maryland, College Park Policy Concerning the Use of Self-Authored Course Materials. All orders of instructional materials that entail financial gain for the faculty member teaching the course must be approved by the chair of the department offering the course. When

the text is not in general use, special measures are in order. For example, choice of self-authored materials may be confirmed, or made, by a committee. Alternative texts may be authorized. Royalties may be assigned to third-party educational organizations, including the University of Maryland.