



## **FORT VALLEY STATE UNIVERSITY CONFLICT OF INTEREST POLICY**

### **1. PREAMBLE**

Full-time faculty and staff of Fort Valley State University (hereinafter referred to as the "University") understand that their primary contractual responsibility is to the University. To ensure the integrity and objectivity of research and other scholarly activities, full-time and part-time faculty and staff (hereinafter referred to as "employees") must not let outside interests interfere with or compromise their obligations to the University. This policy is intended to increase the awareness of employees to the potential for conflicts of interest, and to establish procedures whereby such conflicts may be avoided or properly managed. This is intended to be a disclosure and review policy to provide support to employees while protecting the interests of the University. This policy requires approval for outside activities, as dictated by the Board of Regents and the University, and addresses issues of real or apparent conflict.

Applicable laws, rules, regulations, and policies that address conflicts of interest are outlined below.

#### **1.1 State Law**

##### **Sales to Political Subdivision by Officers/Employees**

O.C.G.A. 16-10-6 provides that, subject to certain specific exceptions, it is a crime, punishable by imprisonment for one to five years, for an employee or officer of a political subdivision or agency thereof (e.g., the Board of Regents or University) to sell real or personal property [including personal services] to certain political subdivisions of the state, including the employing political subdivision or an agency thereof.

##### **Transacting Business with the State**

O.C.G.A. 45-10-20 through 45-10-28 provide that, subject to specific exceptions, it is unlawful for a state employee to transact business with the agency by which that person is employed for himself, on behalf of a business in which the employee or his spouse or dependents has a substantial interest, or on behalf of anyone as agent, broker, dealer or representative. Transacting business is defined as selling real property, personal property, or services, or purchasing surplus real or personal property. Employees are required to file annual disclosure statements of business transactions with any state agency for single transactions—that exceed \$250.00 and when the aggregate of all transactions exceed \$9,000.00 per calendar year. The annual disclosure statements must be filed prior to January 31<sup>st</sup> with the Georgia Government Transparency and Campaign Finance Commission on forms approved by the Commission

## **1.2 Board of Regents Policies**

Employees of the University System of Georgia and the University must comply with policies set forth in the Board of Regents Policy Manual as well as University Policies. Board of Regents Policies on receipt of gifts by University System employees, appearance of conflicts of interest, outside activities, and consulting are set out in Appendix “A,” attached.

## **2. CONFLICT OF INTEREST**

In compliance with the Board of Regent’s (BOR’s) charge to USG institutions to adopt a procedure for defining and prohibiting conflicts of interest, the following policy applies to all employees and defines conflict of interest, charges each unit within the University to ensure that prior approval is obtained for activities that may present a conflict of interest, and specifies a plan for reimbursing the institution when the institution’s personnel, facilities, equipment and/or materials are used in consulting activities. This policy extends the BOR’s charge to address situations, in addition to consulting, which may present real or apparent conflicts of interest.

### **2.1 Definition**

A conflict of interest exists when an employee’s interests or commitments conflict with or compromise the regular and punctual discharge of his or her official duties and affects or provides an incentive to affect the employee’s conduct of his or her employment responsibilities. Each unit is responsible for addressing potential and actual conflicts of commitment. Financial conflicts occur when an employee’s direct or indirect financial interests compromise or influence his or her University performance. Employees may not use their institutional position or affiliation for personal gain, or for the benefit of immediate family members (defined as parents, spouse and/or children), to the detriment of the University. This policy is not intended to infringe on the constitutional right to free speech.

The principles guarding against a conflict of interest prohibit any employee from:

- a) allowing direct or indirect financial interests to affect the design, conduct or reporting of research or scholarly activity,
- b) allowing direct or indirect financial interests to influence decisions which compromise the comport of University responsibilities,
- c) conducting business with the State, except as expressly permitted by law,
- d) engaging in any for-profit or non-profit business, organization, association or venture that creates a real or reasonably perceived conflict of interest with the work the employee performs for the institution,
- e) directly or knowingly asking, accepting, demanding, extracting, soliciting, seeking, assigning or receiving anything of value for himself or herself or for another person in return for being influenced in the performance of University responsibilities.

## **2.2 Potential Conflicts of Interest**

There are certain cases in which the appearance of conflict of interest is present even when no conflict actually exists. Such apparent conflicts can do almost as much damage as actual ones, undermining the credibility of research and scholarship or calling into question the integrity of an employee or the University or both. For this reason, it is important for an employee, in evaluating a potential conflict of interest, to consider how it might be perceived by others. An appearance of conflict exists when a reasonable person would conclude from the circumstances that the employee's ability to act in the University's best interests or perform contractual obligations is compromised. The University may require employees to desist from certain activities that create the appearance of a conflict of interest. However, upon appropriate disclosure and review, activities which present the potential for a conflict of interest may be deemed acceptable and not a conflict of interest.

## **2.3 Assumed Non-Conflict**

Activities that do not compromise the objectivity of research results, the integrity of employee-student interactions, and other interests of the University should not present the potential for a conflict of interest. Although these activities may be outside the employee's commitments to the University, they may not present a conflict of interest.

The following are examples of activities that are assumed NOT to present a conflict of interest (note that the activities must still be in compliance with Section 2.1):

2.3.A. Earning passive income, including receiving royalties for published scholarly works and other materials, interest investments, and so forth.

2.3.B. Membership in and service to professional associations and learned societies; public service; membership on professional review or advisory panels; presentation of lectures, papers, concerts, or exhibits; participation in seminars and conferences; reviewing or editing scholarly publications and books; and service to accreditation bodies are permitted so long as they do not conflict or interfere with the timely performance of primary University duties. These activities are permitted even if they are performed for nominal honoraria or reimbursement of expenses, provided that the receipt of nominal honoraria or reimbursement of expense is not in conflict with other applicable University, state, or federal policy, rule, or regulation.

2.3.C. Ownership of or equity in a corporation used solely for the employee's consulting activities.

2.3.D. Requiring (with departmental approval) or recommending one's own or a family member's textbook or other teacher aids, materials, software, equipment or the like to be used in connection with University instructional programs, or texts, aids, materials, software, or equipment.

## **2.4 Disclosure and Review**

To effectively prevent conflicts of interest or the appearance thereof, this policy requires:

- a) disclosure to supervisors of interests and activities which might give rise to conflicts,
- b) readily available advice and counsel to employees and department/unit heads on any conflict situation, and
- c) timely completion of an Outside Activities Form, to be signed by the department/unit heads and submitted to human resources on an annual basis.

The purpose of disclosure is to ensure that no unresolved conflict exists between an employee's primary University commitments and his or her outside interests and activities. Disclosure is not intended to inhibit professional activities, but to inform administrators (i.e., department/unit heads, deans/supervisors or vice presidents) of the facts necessary to determine if a potential conflict exists so that they may resolve the problem. Disclosure and review may resolve situations that involve the appearance of or potential for conflicts of interest. Each unit and division within the university is charged with ensuring that conflicts and potential conflicts of interest are disclosed in writing to and reviewed by administrators of such unit/division. Procedures developed may utilize mechanisms already in place in the unit, such as those related to disclosure of outside activities; otherwise disclosure should be made in writing to the immediate supervisor, whose decision may be reviewed upon request of the employee through the next level of authority up to the unit head and/or dean. Disclosure of potential conflicts of interest related to external grants and sponsored projects should be made through the Office of Sponsored Projects, which maintains forms for that purpose. Consultation with the Office of Compliance may be useful in determining the existence or lack of conflict of interest. Additional advice is available for employees from the Office of Legal Affairs.

In situations where an employee has been denied permission by the unit head and dean to engage in an activity or endeavor due to conflict of interest, s/he may pursue an administrative appeal by submitting a statement in writing to the Vice President in charge of the employee's division. The decision of the Vice President, in consultation with the Director of Human Resources and/or the Chief Legal Officer, shall be the final decision at the institutional level. Employees who do not comply with the conflict of interest policy may be subject to sanctions or other actions permitted by university policy, which shall be applied according to the provisions of employment, academic responsibility, and tenure.

### **3. REIMBURSEMENT OF THE UNIVERSITY**

Arrangements for reimbursing the university must be made prior to using the institution's personnel, facilities, equipment and/or materials for outside activities. The reimbursement plan will include costs consistent with rates charged outside groups or persons. The designated form for consent to outside activities is available through the Office of Human Resources and includes provisions for reimbursement, if applicable.

### **4. GRANTS AND SPONSORED PROGRAMS**

Specific conflict of interest requirements apply to proposals submitted to the *National Science Foundation*, the *National Institutes of Health* and all components of the *Public Health Service*. Further information may be obtained from the agencies or through the Office of Sponsored Projects.

The National Institute of Food and Agriculture (NIFA) Policy Guide can be accessed at [https://nifa.usda.gov/sites/default/files/resource/NIFA\\_policy\\_gde\\_Oct\\_2014.pdf](https://nifa.usda.gov/sites/default/files/resource/NIFA_policy_gde_Oct_2014.pdf) and addresses COI in a number of situations including items mentioned below.

1. Intellectual property (pg 85 of the NIFA Policy Guide) - Grantee organizations and consortium participants must have policies in place regarding ownership of intellectual property, including conflict of interest issues.
2. Under subsection G. FRAUD, WASTE, AND ABUSE OF NIFA GRANT FUNDS (pg 117) – its noted that grantee COI are to be reported to the Office of Grants and Financial Management.
3. Under paragraph 7. Procurement System Standards and Requirements (pg 129), also addresses COIs.

## APPENDIX “A”

**Policy 802.14** states the following in regard to gratuities and conflicts of interest:

*A. Prohibited Receipt of Gifts by University System of Georgia Employees.*

*An employee of the Board of Regents shall not directly or indirectly solicit, receive, accept, or agree to receive a thing of value by inducing the reasonable belief that the giving of the thing will influence his/her performance or failure to perform any official action. The acceptance of a benefit, reward or consideration where the purpose of the gift is to influence an employee in the performance of his/her official functions is a felony under O.C.G.A. § 16-10-2.*

*An employee of the University System of Georgia or any other person on his/her behalf, is prohibited from knowingly accepting, directly or indirectly, a gift from any vendor or lobbyist as those terms are defined in Georgia statutes (O.C.G.A. 21-5-70(6) and 45-1-6(a)(5)b). If a gift has been accepted, it must be either returned to the donor or transferred to a charitable organization. A gift may be accepted by the employee on behalf of the institution subject to reporting requirements of the Board of Regents. If the gift is accepted, the person receiving the gift shall not maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift.*

*For purposes of this policy a gift is defined as lodging, transportation, personal services, a gratuity, subscription, membership, trip, loan, extension of credit, forgiveness of debt, advance or deposit of money, or anything of value. A gift shall not include:*

- 1. Food or beverage consumed at an occasional meal or event, provided the value is reasonable under the circumstances but in no event exceeds \$100 per person;*
- 2. Food, beverages, and registration at group events to which substantial numbers of employees of an institution are invited;*
- 3. Food, beverage, or expenses afforded employees, relatives or others that are associated with normal and customary business or social functions or activities;*
- 4. Actual and reasonable expenses for food, beverages, travel, lodging and registration provided to permit participation in a meeting, demonstration, or training related to official or professional duties if participation has been approved in writing by the Chancellor, the President, or his/her designee;*
- 5. Promotional items generally distributed to the general public;*
- 6. Textbooks, software, and instructional materials to be reviewed by teaching faculty;*
- 7. An award, plaque, certificate, memento, or similar item given in recognition of the recipient's civic, charitable, political, professional, private or public service or achievement;*

*8. Legitimate salary, honoraria, benefit, fees, commissions, or expenses associated with the recipient's non-public business, employment, trade, or profession;*

*9. Gifts from a person or entity who is neither a lobbyist nor a vendor as those terms are defined in State Statutes, nor a student or patient at an institution;*

*10. Consulting fees, honoraria, or financial benefits from sponsors or foundations, received in conformance with University System, campus policies, and Georgia law;*

*11. Gifts to or from University System foundations or other separately incorporated, charitable entities.*

B. Appearance of Conflicts of Interest

*An employee shall make every reasonable effort to avoid even the appearance of a conflict of interest. An appearance of conflict exists when a reasonable person will conclude from the circumstances that the employee's ability to protect the public interest, or perform public duties, are compromised by personal interest. An appearance of conflict can exist even in the absence of a legal conflict of interest. Employees are referred to State Conflict of Interest Statutes O.C.G.A. §45-10-20 through §45-1070 and Board of Regents Policies 802.16 through 802.1603 and institutional policies governing professional and outside activities.*

C. Other Rules of Conduct

- 1. Every employee shall make a due and diligent effort to determine whether he/she has a conflict of interest or appearance of conflict before taking any action.*
- 2. Every employee shall continually monitor, evaluate, and manage his/her personal financial and professional affairs to ensure the absence of conflicts of interest and appearance of conflicts.*

*D. Violations*

*A violation of this policy may subject an employee to disciplinary action, including termination of employment.*

**Policy 802.16** states the following in regard to outside activities:

*An employee of the University System of Georgia should avoid actual or apparent conflict of interests between his or her college or university obligations and his or her outside activities.*

**Policy 802.1601** states the following in regard to occupational activities:

- A. An employee of the University System shall not engage in any occupation, pursuit, or endeavor which will interfere with the regular and punctual discharge of official duties.*
- B. All full-time faculty, administrators, and other professional staff members employed by an institution of the University System are expected to give full professional effort to their assignments of teaching, research, and service.*
- C. Professional employees are encouraged to participate in professional activity that does not interfere with the regular and punctual discharge of official duties provided the activity meets one of the following criteria: (1) is a means of personal professional development; (2) serves the community, state or nation; or (3) is consistent with the objectives of the institution.*
- D. For all activities, except single-occasion activities, the employee shall report in writing through official channels the proposed arrangements and secure the approval of the president or his/her designee prior to engaging in the activities. Such activities include consulting, teaching, speaking, and participating in business or service enterprises.*

**Policy 802.1602** states the following in regard to consulting:

*Recognizing that teaching, research and public service are the primary responsibilities of faculty members in the University System of Georgia, it shall be considered reasonable and desirable for faculty members to engage in consulting activities, which are defined for purposes of this policy as any additional activity beyond duties assigned by the institution, professional in nature and based in the appropriate discipline for which the individual receives additional compensation during the contract year.*

*Each unit of the University System shall adopt guidelines governing consulting activities of faculty members which shall include the following:*

- 1. A plan for reimbursing the institution for use of the institution's personnel, facilities, equipment and/or materials consistent with rates charged outside groups or persons.*
- 2. A procedure for obtaining prior approval of the president or his designee.*
- 3. A procedure for defining and prohibiting conflicts of interest.*