

Policy on Conflicts of Interest in Sponsored Programs

University of Georgia

1. Preamble

Faculty and staff (hereinafter referred to as "employees") of the University of Georgia (hereinafter referred to as the "University" or as "UGA") understand that their primary responsibility is to the University. At the same time, it is recognized that participation in activities of professional associations, governmental entities, industrial organizations, and other public or private institutions may serve the academic interests of UGA. The experience and enhanced national status that such participation brings are shared indirectly by UGA, and these outside activities often contribute to the richness and diversity of the academic community.

However, an employee's commitment to serve an entity other than UGA should be made only after giving serious consideration to the amount of time and effort that can be given to other pursuits while satisfying the primary obligation to UGA. Full-time employees must commit their full professional efforts to UGA. Part-time employees owe a proportionate commitment. UGA employees must not engage in any occupation, pursuit, or endeavor that interferes with their UGA obligations.

Over the past decade, the opportunity for employees to engage in financially rewarding external professional and entrepreneurial activities has increased markedly. At the same time, scrutiny of the professional ethics of individuals involved in these activities has grown. Federal agencies have developed regulations to avoid or manage conflicts of interest in federally sponsored programs. If UGA is to enjoy the level of public support necessary to carry out its missions, all UGA employees must demonstrate that they subject themselves to the highest standards of ethical behavior.

A number of laws, rules, regulations, and policies already address conflicts of interest. Regulations of the United States Public Health Service (PHS), for example, require institutions receiving PHS funds for research to promote "objectivity in research by establishing standards to ensure there is no reasonable expectation that the design, conduct, or reporting of research funded under PHS grants or cooperative agreements will be biased by any conflicting financial interest of an investigator." 42 Code of Federal Regulations (CFR) 50.601¹ (45 CFR 94.1 for contracts²). Georgia state laws pertaining to "Sales to Political Subdivision Officers/Employees" (O.C.G.A. §16-1 0-6³)

¹ Relevant text available at <http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/cfr2002/octgtr/42cfr50.601.htm>. Internet. Accessed November 11, 2003.

² Relevant text available at <http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/cfr2002/octgtr/45cfr94.1.htm>. Internet. Accessed November 11, 2003.

³ Relevant text available at <http://www.legis.state.ga.us/cgi-bin/glcodesdetail.pl?code=16-10-6>. Internet. Accessed November 11, 2003.

and "Transacting Business with the State" (O.C.G.A. §45-10-20 through 45-10-28 ⁴) are included as Appendix A to this Policy, and Board of Regents Policies 802.1601 and 802.1602⁵ on conflicts of interest are attached as Appendix B. Appendix C references other relevant University of Georgia policies regarding consulting and conflicts of interest and commitment. Please note that Appendix A is not exhaustive of all state and federal laws that may be applicable to conflicts of interest and it is the responsibility of each employee to ensure that all of an employee's extramural activities comply with applicable state and federal law.

To comply with current rules and regulations of federal and other agencies and organizations, the University has adopted this Policy on Conflicts of Interest to prevent or resolve, through management and/or mitigation, real or apparent conflicts that may exist in relation to instruction, research, and service activities undertaken by University employees. This Policy requires that employees disclose their external financial interests and activities with each proposal submitted to an external agency or organization and establishes the University Conflicts of Interest Committee (hereinafter referred to as "UCIC") to help resolve any conflicts, including apparent conflicts and conflicts of commitment.

2. The Policy

2.1 The Scope of the Policy

This Policy applies to all employees who apply for instruction, research, or service support from external agencies or organizations, with the effective date of April 23, 2004, and applies to ongoing sponsored activities funded by external agencies and organizations regardless of the date that such activities were initiated.

This Policy also applies to conflicts of commitment in those activities described above, as referenced in Section 1.0 (Preamble) of this Policy and in Board of Regents Policies 802.1601, 802.1602 ⁶

This Policy requires disclosure of all activities that involve a significant financial interest on the part of each individual employee, his/her spouse, or his/her dependent children so that real or apparent conflicts of interest and/or commitment may be managed, reduced, or eliminated.

2.2 Definitions

A **conflict of commitment** exists when an occupation, pursuit, or endeavor interferes with the regular and punctual discharge of an employee's official, assigned duties at UGA (Board of Regents Policy 802.1601 ⁷).

⁴ Relevant text available at <http://www.legis.state.ga.us/cgi-bin/gcodesdetail.pl?code=45-10-20>. Internet. Accessed November 11,2003.

⁵ Relevant text available at <http://www.usg.edu/admin/policy/800.phtml>. Internet. Accessed November 11,2003.

⁶ Relevant text available at <http://www.usg.edu/admin/policy/800.phtml>. Internet. Accessed November 11,2003.

A **conflict of interest** arises when an employee or an employee's spouse or dependent child has a significant financial interest, as defined below, in an outside funding source, which interest could directly and significantly affect decision making in the design, conduct, or reporting of externally funded instruction, research, or service activities performed on behalf of the University.

A **conflict of interest** does not necessarily arise in connection with the following activities, and this Policy does not automatically prohibit activities such as:

- Equity participation in a corporation;
- Service as an officer in a corporation;
- Service on a governing board;
- Service on a scientific advisory board;
- Receipt of funding from an external entity in which an employee has an interest;
- Acceptance of publication royalties, royalties under the terms of the UGA Intellectual Property Policy, or honoraria for papers and lectures; or
- Service to outside educational, professional, scientific, artistic, cultural, civic, business, or other organizations, which service enhances the value of the employee to UGA and does not adversely affect the employee's primary commitment to UGA.

An **apparent conflict of interest** arises when an employee is involved in a particular matter and the circumstances are such that a reasonable person with knowledge of the relevant facts would question the impartiality of the employee in the matter.

A **significant financial interest** means anything of monetary value, or potential monetary value, including, but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options, or other ownership interests); and intellectual property rights (e.g., patents, copyrights, and royalties from such rights).

The term **significant financial interest** shall not include:

- Salary, royalties, or other remuneration from the University, except in instances where royalties result from discoveries requiring research with human subjects;
- Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
- Income from service on advisory committees or review panels for public or nonprofit entities;

⁷ Relevant text available at <http://www.usg.edu/adminJpolicy/800.phtml>. Internet. Accessed November 11, 2003.

- An equity interest that, when aggregated for an employee and the employee's spouse and dependent children, meets both the following tests: does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a 5% ownership interest in any single entity. (NOTE: When the proposed project requires the use of human subjects and approval from the Institutional Review Board, these monetary thresholds do not apply. In such cases, the disclosure threshold is any amount above \$0 and any equity percentage above 0%); or
- Salary, royalties, or other payments that, when aggregated for an employee and the employee's spouse and dependent children, are not expected to exceed \$10,000 during the next twelve-month period.

An **employee** means a University employee or any other individual serving as the principal investigator, co-principal investigator, or co-investigator, or any other person at UGA, including a student, who is responsible for any portion of the design, conduct, or reporting of instructional, research, or service activities, or any other sponsored activity funded or proposed for funding by an external sponsor, agency, or organization.

An **investigator** means the principal investigator, co-investigator, and any other person who is responsible for any portion of the design, conduct, or reporting of research or educational activities funded or proposed for funding by an external sponsor, agency, or organization. For the purposes of this Policy, as it relates to financial interests, "investigator" includes the investigator's spouse and dependent children.

A **sponsored activity** means research, creative activity, training, or instructional and service projects involving funds, materials, or other compensation from outside sources (sponsor) under agreements which include any of the following conditions:

- The agreement binds the University to a line of scholarly or scientific inquiry or service that is specified to a substantial level of detail, generally including a statement of deliverables;
- A line-item budget is involved which details expenses by activity, function, or project period. The designation of overhead (indirect costs) qualifies a budget as a line-item budget;
- Financial reports and/or technical reports are required;
- Unexpended funds must be returned to the sponsor at the conclusion of the agreement;
- The agreement provides for the disposition of either tangible or intangible properties which may result from the activity. Tangible properties include buildings, equipment, records, technical reports, theses, or dissertations. Intangible properties include rights in data, copyrights, or inventions;
- Prior approval for changes in budget or project activities are required by the sponsoring entity;
- Cost sharing is required by the sponsoring agency;

- The recipient will enter into a subcontract for partial performance of the award;
- The award is subject to special conditions such as human subjects or animal care approval; and/or
- The award involves state or federal funds, federal flow-through funds, or the donation of federal equipment, commodities or services.

Research means a systematic investigation designed to develop or contribute to general knowledge relating broadly to any discipline of scholarly endeavor. This term encompasses basic and applied research and product development. As used in this Policy, "research" includes any such activity for which funding is sought, available, or offered from external sources.

2.2 Disclosure of External Interests

Each employee must disclose all of his/her significant financial interests (including those of the employee's spouse and dependent children) that would reasonably appear to be affected by the instructional, research, or service activities funded or proposed for funding by an external sponsor, agency, or organization, or in entities whose financial interests would reasonably appear to be affected by such activities. Each employee must also disclose the existence of any conflict of commitment or apparent conflict of interest, as defined by this Policy, to the responsible person within the employee's college/school as designated in Section 3.1 Responsibility of this Policy.

Disclosures of any conflict of interest and/or conflict of commitment shall be made at the time of submitting any proposal for external funding, or immediately upon request by the University.

Disclosures of any conflict of interest and/or conflict of commitment shall be made by completing the Investigator's Disclosure Statement of External Interests. A new Disclosure form must be completed for each proposal to be submitted for external funding, and the Investigator's Disclosure Statement of External Interests will be made a part of the University's Proposal Transmittal Form for each proposal. A copy of the Investigator's Disclosure Statement of External Interests may be obtained from the University of Georgia Office of Sponsored Programs or the Office of the Vice President for Research web site (<http://www.ovpr.uga.edu/forms/#com>).

The Investigator's Disclosure Statement of External Interests must be updated annually during the period of the award and at any time new reportable significant financial interests are recognized.

3. Administration of the Policy

3.1 Responsibility

The President of the University has delegated the Office of the Vice President for Research (hereinafter referred to as "OVPR") to be responsible for proposals submitted to external sponsors. OVPR expects each college/school to identify one or more responsible individuals at the level of Assistant or Associate Dean or Department Head to make conflicts of interest evaluations. The Office for Sponsored Programs (hereinafter referred to as "OSP") will notify the responsible person when an Investigator's Disclosure Statement of External Interests has been made in conjunction with a proposal submission. The responsible person will conduct a review, which at a minimum requires an assessment of the employee's disclosure of confidential information. If a conflict of interest is found by the responsible person to exist, the matter may be handled at that level (e.g., mitigated, managed, or eliminated) or it may be referred to the University Conflicts of Interest Committee.

3.2 The University Conflicts of Interest Committee

The University Conflicts of Interest Committee (UCIC) is appointed by the University President, and serves as a UGA resource with respect to matters involving the general subject of individual and institutional conflicts of interest and conflicts of commitment and involving the identification and management, mitigation, or elimination of specific conflicts of interest and conflicts of commitment. The UCIC shall be chaired by the Vice President for Research or his/her designee. It shall also include not less than five additional appointed members with broad representation across UGA and a member who is not a University employee. Members shall serve three-year staggered terms.

Upon referral from the responsible college/school person, the UCIC shall review all material related to a potential or apparent conflict of interest or conflict of commitment. If the UCIC identifies a conflict, it will resolve the conflict by management, mitigation, or elimination.

Examples of conditions or restrictions that might be imposed to manage, mitigate, or eliminate conflicts of interest and/or commitments include, but are not limited to:

- public disclosure of significant financial interests including disclosure on manuscripts submitted for publication, on abstracts and posters submitted for presentation, and in informed consent documents;
- monitoring of instruction, research, or service activities by independent reviewers;
- modification of the instruction, research, or service activity plan;
- disqualification of an individual from participation in the portion of the externally funded activity that would be affected by that individual's significant financial interest;
- divestiture of an individual's significant financial interest;

- relinquishment or reassignment of duties that could exacerbate the conflict;
- severance of relationships or holdings that create conflicts;
- placement of holdings in a blind trust for a specific period of time; or
- reduction in time allocations, in cases of conflict of commitment.

If the UCIC determines that imposing conditions or restrictions such as those above would be either ineffective or inequitable, or that the potential negative impacts that may arise from a significant financial interest are outweighed by interests of scientific progress, technology transfer, or the public health and welfare, then some external sponsors (in all such cases sponsors will be federal agencies) may permit the UCIC to allow the project to go forward without imposing such conditions or restrictions.

3.3 UGA Requirements for Federally Funded Instruction, Research, or Service Activities

The submission of a proposal for sponsored instruction, research, or service to a federal sponsor requires UGA and all subrecipients, through the Vice President for Research, to certify that they are in compliance with this Policy and with applicable federal rules and regulations, including the following conditions:

- That there is in effect at UGA and at all subrecipient institutions written and enforced policies on conflicts of interest and that such policies are consistent with federal requirements when such instruction, research, or service is sponsored by a federal agency (federal requirements do not apply to non-federally funded research);
- That to the best of their knowledge, all financial disclosures required by the conflicts of interest policies of UGA and any subrecipient institutions have been made;
- That all identified conflicts of interest will have been satisfactorily managed, mitigated, or eliminated, in accordance with the University's conflicts of interest policy, prior to UGA's acceptance of an award and, if required, a sponsoring federal agency has been informed that a disclosed conflict of interest has been managed, mitigated, or eliminated;
- That conflicts which cannot be satisfactorily managed, reduced, or eliminated will be disclosed to a sponsoring federal agency;
- That UGA agrees to disclose, when required by federal funding agencies, all conflicting interests identified by UGA and how those interests have been managed, reduced, or eliminated to protect the instruction, research, or service projects from bias; and
- That UGA will otherwise comply with applicable federal agency rules and regulations for promoting objectivity in sponsored activities (this includes instruction and service).

Each individual investigator also must certify:

- That he/she has read and understands the UGA Policy on Conflicts of Interest and other relevant policies, and has signed an acknowledgement of the same;
- That to the best of his/her knowledge, all financial or other disclosures required by the UGA policy were made; and
- That he/she will comply with all conditions or restrictions imposed by his/her college or school or the UCIC regarding conflicts of interest and conflicts of commitment up to and including possible forfeiture of the award; and
- That disclosure updates will be made annually and when new significant financial interests occur.

3.3 Records

All Investigator's Disclosure Statements of External Interests and all records of actions taken to resolve or mitigate conflicts of interest and conflicts of commitment will be maintained by the responsible person in a college/school and/or by the UCIC for a period of at least three (3) years beyond the termination or completion of the sponsored award to which they relate or until the resolution of any action involving those records, whichever is longer.

3.4 Reporting

The University must report any conflicting interest to the funding source for externally funded or sponsored activities prior to expending any funds, and any interest identified as conflicting subsequent to the initial report must be reported within 60 days of that identification. Further, the University agrees to make conflict information available, upon request, to an external funding source. If it is determined that an investigator has biased externally funded or sponsored activities, the University will promptly notify the funding source of the corrective action taken or to be taken. In the case where a project to evaluate a drug, medical device or treatment was conducted by an investigator with a conflict that was not disclosed or managed, the University will require investigators to disclose the conflict in each public presentation of the results of the research.

4. Enforcement Mechanisms and Sanctions

UGA or the University of Georgia Research Foundation, Inc. (hereinafter referred to as "UGARF") will not submit instruction, research, or service proposals, or allow employees to submit instruction, research, or service proposals, to external sponsors if the Investigator's Disclosure Statement of External Interests required by this Policy is not provided by the investigator(s). UGA or UGARF will not execute award documents or allow expenditures of research or service funds from external sponsors if the Investigator's Disclosure Statement of External Interests required by this Policy is not provided and signed by the investigator(s), if the department's/college's review and

resolution of the matter is not yet completed and documented, or if the investigator(s) do not agree to abide by any and all conditions or restrictions imposed by the college/school or the UCIC.

Approved by:



Michael F. Adams
President
The University of Georgia

Date: 1/14/2010

Questions concerning this Policy should be directed to the Associate Vice-President for Research and Director of Sponsored Programs, Room 617, Boyd Graduate Studies, 706.542.5939.

Revised: January 2010

Appendix A

State Law

Sales to Political Subdivision by Officers/Employees

a.C.G.A. § 16-10-6⁸ provides that 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 UGA) to sell real or personal property to certain political subdivisions of the state, including the employing political subdivision or an agency thereof. Exceptions are provided for sales of personal property of less than \$200.00 per calendar quarter, sales of personal property pursuant to sealed competitive bids, and sales of real property in which certain disclosures are made.

Transacting Business with the State

a.C.G.A. §§ 45-10-20 through 45-10-28⁹ provide that 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. Certain exceptions are provided, and employees are required to file annual disclosure statements of business transactions with the state. The annual disclosure forms are provided by UGA.

⁸ Relevant text available at <http://www.lexis-nexis.com/hottopics/gacode/default.asp> Internet. Accessed January 7, 2010

⁹ Relevant text available at <http://www.lexis-nexis.com/hottopics/gacode/default.asp> Internet. Accessed January 7, 2010

Appendix B

Board of Regents Policies

Policy 82.15.1 provides, in relevant part, that:

An employee of the University System shall not engage in any occupation, pursuit, or endeavor that will interfere with the regular and punctual discharge of official duties.

All full-time faculty, administrators, and other professional staff members employed by a unit of the University System are expected to give full professional effort to their assignments of teaching, research, and service.

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) it is a means of personal professional development; (2) it serves the community, state, or nation; or (3) it is consistent with the objectives of the institution.

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 University President or his designee prior to engaging in the activities. Such activities include consulting, teaching, speaking, and participating in business or service enterprises.

Policy 82.15.1 provides that:

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:

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;

A procedure for obtaining prior approval of the President or his designee; and

A procedure for defining and appropriately responding to real or apparent conflicts of interest.

¹⁰ Relevant text available at http://www.usg.edu/policymanual/section8/policy/8.2.15_outside_activities/ Internet. Accessed January 7, 2010

¹¹ Relevant text available at http://www.usg.edu/policymanual/section8/policy/8.2.15_outside_activities/ Internet. Accessed January 7, 2010

Appendix C

University of Georgia Policies

There is no general consulting policy for the University of Georgia. The Board of Regents Policy Manual addresses consulting in Section 8.2.15.2 (http://www.usg.edu/policymanual/section8/policy/8.2.15_outside_activities/), and the University of Georgia Office of Vice President for Academic Affairs Policy Manual, Section 1.07-04 sets forth a consulting policy conforming to Board of Regents policy (<http://www.uga.edu/provost/polproc/aapm/aapm/aapm.htm>). In addition, individual schools and colleges and other offices of vice presidents within the University have set forth consulting policies, also in conformance with Board of Regents policy. For one example, see the Franklin College of Arts and Sciences Consulting Policy (http://franklin.uga.edu/faculty_staff/forms/consulting_request_form.pdf). The University has an Intellectual Property Policy (http://www.ovpr.uga.edu/rpph/rph_chp2.html) that requires consulting agreements to include a statement that the employee has obligations to the University as described in the Intellectual Property Policy. In the event of conflict between a consulting agreement and the Intellectual Property Policy, the Intellectual Property Policy controls.