



ACADEMIC AFFAIRS
Office of the Provost
777 Glades Road, AD10-309
Boca Raton, FL 33431
tel: 561.297.3062
fax: 561.297.3942
www.fau.edu/provost

MEMORANDUM

TO: Faculty

FROM: Gary W. Perry
Provost and Vice President for Academic Affairs

DATE: March XX, 2016

SUBJECT: Outside Employment/ Professional Activity Form Reporting Requirements As They Relate to Faculty

The following explanation of the Outside Employment/Professional Activity Form reporting requirements as they relate to faculty is to provide clarification on the necessary activities/employment that must be reported to the University using the designated forms.

A. Reporting Requirements:

All outside employment, compensated activity, and continuing business activity (including managerial interests or managerial positions) should be reported and approved. Uncompensated activities and financial interests (including financial interests of an employee's spouse/ immediate family member) may also need to be reported if they fall within any of the categories described below. In general, an employee must report any compensated outside activity or financial interests which have the potential to create a conflict. Conflict of time commitments, both compensated and uncompensated, must also be reported. The reporting requirements apply for any period in which an employee is employed by the University.

The following outside activities and financial interests must be reported prior to engaging in the activity or acquiring the financial interest:

- a) Outside activities in which there is more than an incidental use of University facilities, equipment, and/or services.
- b) Outside activities in which a University student or other University employee is directly or indirectly supervised by the employee if the employee in any way supervises or evaluates the student or other employee at the University.

- c) Management, employment, consulting, and contractual activities with, or ownership interests in, a business entity (or state agency) which does business with the university. In the case of material financial and managerial interests, the information required extends to the spouse, domestic partner, dependent and children of the employee, and for managerial interests, to relatives.
- d) Management, employment, consulting, and other contractual activities with, or ownership interest in, a business entity which competes with the University.
- e) Candidacy for public office.
- f) Required use of books, supplies, equipment, or other instructional resources at Florida Atlantic University when they are created or published by the employee, or the employee's spouse or domestic partner or minor children or by an entity in which the employee, or the employee's spouse, domestic partner, dependent or children have financial interest, if more than \$500 is received or expected to be received annually by any or all of them in the aggregate.
- g) Professional compensated activities, including, but not limited to, consulting, teaching at another institution, participating in an activity in which an honorarium is to be received, and employment as an expert witness.
- h) Service on a board of directors or board of trustees, service as an officer or other management interest or position in an entity.
- i) Any outside compensated employment.
- j) Any employment, contractual relationship, or financial interests of the employee's which may create a continuing or recurring conflict between the employee's interests and the performance of the employee's public responsibilities and obligations. This includes any outside activity in which the employee is required to waive rights to intellectual property and any outside activity or financial interest with a business entity which supports the employee's research or training program at the university.
- k) Outside activities and financial interests required to be reported under federal contract and grant regulations.
- l) Outside activities, both compensated and uncompensated, that require a time commitment that could interfere with obligations related to employment at the University.

B. Exceptions

Various activities of faculty members for organizations outside the University may be considered to be within the scope of the faculty member's duties as a University employee. For example, service for certain professional organizations may be considered within the responsibilities of the faculty member and, if so, would not be an "outside activity" required to be disclosed. However, such activities must be approved as part of the faculty member's University responsibilities, and any use of University resources with regard to these duties must receive appropriate administrative approval. Further, even when these activities are considered within the scope of the faculty member's duties, the faculty member should remain aware of the conflict of interest considerations that may arise when performing work for organizations separate from the University.

In general, most other outside activities are allowed if they do not interfere with the faculty member's performance of his or her University obligations. However, determining whether a particular situation involves a conflict of interest is dependent on reviewing all the facts of the specific situation, which emphasizes the importance of the disclosure and discussion of possible conflicts.

FLORIDA ATLANTIC UNIVERSITY
REPORT of OUTSIDE EMPLOYMENT or
PROFESSIONAL ACTIVITY FORM
ADDITIONAL EXPLANATION

Definitions:

“Outside Activity” is defined as private practice, private consulting, additional teaching or research for someone or an entity that is not FAU, or other professional activity, compensated or uncompensated, which is not part of the faculty member’s assigned duties and for which the University has provided no compensation.

“Conflict of Interest” is defined as any conflict between the private interests of the employee and that employee’s obligations to FAU, the public interests of FAU, or the interests of the State of Florida. This includes conflicts of interest specified under Florida Statutes (Section 112.313), federal regulations, or University policy (see FAU’s Report of Outside Employment or Professional Activity Form available online or from Human Resources). It also includes any activity that interferes with the full performance of the employee’s professional or institutional responsibilities or work obligations.

“Sponsored Research” for purposes of this form is defined as research that is funded by a non-FAU entity.

“Significant Financial Interest” is defined as a financial interest consisting of one or more of the following interests of the Investigator (and those of the Investigator’s spouse and dependent children) that reasonable appears to be related to the Investigator’s institutional responsibilities:

- i. With regard to any publicly traded entity, a significant financial interest exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure and the value of any equity interest in the entity as of the date of disclosure, when aggregated, exceeds \$5,000. For purposes of this definition, remuneration includes salary and any payment for services not otherwise identified as salary (e.g., consulting fees, honoraria, paid authorship); equity interest includes any stock, stock option, or other ownership interest, as determined through reference to public prices or other reasonable measures of fair market value;
- ii. With regard to any non-publicly traded entity, a significant financial interest exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure, when aggregated, exceeds \$5,000, or when the Investigator (or the Investigator’s spouse or dependent children) holds any equity interest (e.g., stock, stock option, or other ownership interest); or
- iii. Intellectual property rights and interests (e.g., patents, copyrights), upon receipt of income related to such rights and interests.

Policy:

Subject to University policies, FAU encourages University faculty and staff to undertake outside activities that will increase the employee’s professional reputation and service to the community. If an outside activity is undertaken, the employee must take reasonable precautions to ensure that the outside employer

or other recipient of services understands that the employee is engaging in such outside activity as a private citizen and not as an employee, agent, or spokesperson for the University.

A university employee must not engage in any outside activity which the employee may reasonably conclude may create a conflict of interest or which may interfere with the full performance of the employee's work duties, including a faculty member's academic responsibilities in the classroom and in non-classroom administrative function, research, or advising obligations. FAU allows faculty up to a total of eight (8) hours per week to be spent on approved outside employment/activities. All outside activities are subordinate to and may not conflict with assigned University duties or work time.

Before assuming or continuing any outside activity, this form must be completed, approved and submitted to the FAU Department of Human Resources.

The response must provide detailed information that will enable the reviewer to conduct an analysis of any actual, perceived or potential conflict. "Self-employed," "consulting," or other non-specific responses are insufficient. All clients, customers, boards, businesses, etc. must be disclosed in detail. Any business entity where the employee (or spouse/immediate family member) is a member, owner, employee, partner, director or other position must be disclosed regardless of profitability, compensation, or activity status.

Activities that continue into the next academic year:

If the outside activity extends from one academic/fiscal year through another, a new outside activity statement must be submitted for each additional academic/fiscal year involved.

The following is intended to provide further instruction for what information you need to disclose.

Multiple outside employment/activities

A separate report must be filed for each separate outside employment or activity. This includes separate instances of consulting engaged in by the employee. Therefore, if an FAU employee engages in outside employment/activity for two separate employers, business entities or clients, two separate outside employment/activity forms must be filed.

PROPOSED EMPLOYMENT/ACTIVITY

Continuing Business Interest: This would include not only a continuing business relationship with a third party, but also any relationship you may have with a business in which you, your spouse, or an immediate family member has an ownership interest.

Description of Employment/Activity: Please attach a page explaining the outside employment or activity including: the name of the business, the nature of the service or product supplied, the outside entity's business structure (corporation, partnership, LLC, or individually owned entity), and whether you could perform this activity as part of your FAU employment.

Are FAU employees and/or students involved? If FAU employees or students are involved, the names of those individuals must be included. Additionally, you must state whether any of the students are in any of your classes and whether you are a faculty advisor or supervisor of any of them.

Total number of outside employment/activity reports submitted. As stated above, each instance of outside employment or activity, including consulting, must be reported separately and should be included in the total number reported here.

Total number of hours spent per week on all outside activities. FAU allows faculty up to a total of eight (8) hours per week to be spent on approved outside employment or activities. This is a cumulative number intended to encompass all outside employment and activities. See the definition of "Outside Activity" above if you have questions as to what type of activity is included.

Are you required as a condition of the outside activity to waive any rights you may have to intellectual property you develop? FAU as your employer has certain rights to the intellectual property you develop. See the FAU Intellectual Property Policy. If the outside activity or employment requires that the outside employer own anything you create in the course of that activity or employment, that is a waiver of rights to intellectual property which must be reviewed by the Vice President for Research to see if in the course of this outside employment, it is FAU that is giving up its rights as well as you individually.

Will you be working for an entity that has licensed, optioned, or acquired intellectual property from FAU? If this situation exists, there is a likelihood of a conflict of interest. If a conflict exists, it must be reported, all disclosure of significant financial interest forms completed, and a discussion had as to whether the conflict can be managed. FAU encourages outside activities which further the careers of its employees. Where conflict exists, it will seek to manage those conflicts to protect the employees involved as well as the interests of FAU.

Are you engaged in Sponsored Research at FAU? Any outside activity must not conflict with sponsored research you may be conducting. Under the FAU Division of Research Financial Conflict of Interest in Research Policy, this must be determined by FAU based on the information you provide. If you are engaged in sponsored research, you must complete the disclosure of significant financial interest form and submit through the Sponsored Programs office. Refer to:

http://www.fau.edu/research/docs/policies/researchint/Financial_Conflict_of_Interest_Policy.pdf

Does your outside activity provide you with a significant financial interest? To respond to this question, you should see the Division of Research Financial Conflict of Interest Policy (Division of Research Policy # 10.1.2) cited on the form. That policy contains the definition of a significant financial interest.

Do you, your spouse, domestic partner, dependent, or child have an interest in, employment with, or a contractual relationship with a business entity, including a business which you own or partially own, that is or might be doing business with FAU or any of FAU's direct support organizations? Florida Statutes prohibit certain outside relationships between you and FAU. See Section 112.313, Florida Statutes. Therefore, please include in your response, the name of the business, whether you, your spouse, domestic partner, dependent or child are involved with the business, the nature of the relationship (an outside vendor, consulting, ownership interest in the business) that you, your spouse, domestic partner, dependent or child may have. This includes the name of any business in which you have an ownership interest that has licensed intellectual property from FAU.

March 2016