


<p>Name of Policy: Outside activities and conflict of commitment</p> <p>Policy Number: 3364-81-01-008</p> <p>Approving Officer: Dean of College of Medicine and Life Sciences</p> <p>Responsible Agent: Associate Dean for Faculty Development and Affairs</p> <p>Scope: Faculty not bound by the Collective Bargaining Agreement of the AAUP on the University of Toledo, Health Science Campus</p>	 <p>Effective date: January 1, 2008</p>
<input type="checkbox"/> New policy proposal	<input type="checkbox"/> Minor/technical revision of existing policy
<input checked="" type="checkbox"/> Major revision of existing policy	<input type="checkbox"/> Reaffirmation of existing policy

(A) Policy statement

The University permits and encourages interaction by its faculty with both the public and private sectors by means of consulting and other outside activities, provided such activity: (a) further develops the faculty member in a professional capacity; (b) does not interfere with a faculty member’s teaching, research, and service obligations to the university; (c) is consistent with the mission and objectives of the university; and (d) does not create an unmanageable conflict. The basic tenet of the university’s policy on faculty outside activities is that the outside activity should complement, and not reduce, the individual’s service to the university.

Full-time members of the faculty (including chairpersons) are expected to devote their primary professional loyalty, time, and energy to their university duties, including teaching, research, administrative responsibilities and, where applicable, patient care. The maximum number of outside activity days permissible for a member of the faculty on a twelve-month full-time (1.0 FTE) appointment is twenty-six (26) days, inclusive of weekends and holidays, per calendar year. This number is prorated for full-time faculty with less than a twelve-month appointment. Employment is defined as work performed in excess of twenty-six (26) days, inclusive of weekends and holidays per calendar year.

(B) Purpose of policy

The purpose of this policy is to establish guidelines, and disclosure and approval requirements for paid outside activities. The potential magnitude of outside activities is such that orderly procedures must be followed to avoid any ethical and legal conflicts of interest and to ensure that such activity does not conflict with the proper discharge of college responsibilities.

The following faculty activities are not subject to this policy’s guidelines, and disclosure and approval requirements.

(1) Publication

Scholarly communications in the form of books, movies, television productions, etc., though frequently earning financial profit for a faculty member and for another party, are not viewed as consultation, but may be subject to university policies governing intellectual property.

(2) Clinical practice

Faculty participation in a practice plan approved by the university board of trustees.

(3) Professional service

External professional activities that reflect normal and expected public service activities of faculty and that do not entail compensation beyond reimbursement for expenses and/or a nominal honorarium. These activities include service on national commissions, on governmental agencies and boards, on granting agency peer-review panels, community agencies, on visiting committees or advisory groups to other universities, and on analogous bodies, such as the American Cancer Society or the American Heart Association.

(4) Expert testimony

Faculty members sought to provide expert testimony on medical, scientific, and technical matters within their fields of knowledge, skill, experience, or education for compensation must obtain approval as described in this policy. It must be made clear in all appearances as an expert witness that the statements and opinions of the witness are their own personal statements and opinions and do not represent in any way an official statement of the university, and that the witness is testifying as a private individual and not as a member of the university faculty. Faculty members required to provide expert testimony if served with a valid subpoena of the court need not seek approval under this policy (consult policy 3364-25-08, Jury or trial participation leave).

(C.) Definitions

- (1) "Conflict of Interest" (COI), as used in this policy, refers to any situation in which the Financial Interests or Significant Relationships of the Faculty, Educational Administrators, or their family members might bias – or reasonably appear to bias – the educational and clinical missions of UToledo. Such conflicts of interest may:
 - (a) Create an improper influence on the employee's or another individual's university decisions;
 - (b) Create a prohibited interest in a university contract or transaction under the Ohio Ethics Law;
 - (c) Create any other conflict under the Ohio Ethics Law; or
 - (d) Involve the use of university resources without prior approval.

- (2) “Conflict of commitment” (COC) exists when outside activities:
 - (a) Interfere with an employee’s ability to fulfill university expectations, obligations, and/or responsibilities; or
 - (b) Compete with the university’s interests, including its educational, research, or service missions.

- (3) “Outside Activity” refers to
 - (a) Any activity, paid or unpaid, related to or similar to an employee’s university responsibilities that is performed outside the university, excluding professional service. Such activities include, but are not limited to advising, consulting, outside employment, reimbursed or sponsored travel, research performed outside of the University of Toledo, positions on outside boards, financial interests, gifts, foreign government affiliations (any academic, scientific, professional or institutional affiliation with a foreign government entity, including participation in a Foreign Government Talent Recruitment Program), and other paid or unpaid activities or interests.

(D) Procedure

(1) Disclosure and approval procedures

Faculty members are required to discuss with their chairperson (or Dean, if the faculty member is a chairperson) the effect of potential paid external consulting activities on their teaching, research, patient care (if applicable), and administrative schedule before submitting a formal proposal. Under these circumstances, faculty and chairpersons (or dean, if the faculty member is a chairperson) have an opportunity to identify actual or apparent conflicts of commitment so that they can be minimized or resolved.

A faculty member must complete and submit an outside activity proposal form to his or her department chairperson (or Dean, if the faculty member is a chairperson) prior to engaging in the activity. Forms must be filed sufficiently in advance of the planned activity to permit time for a meaningful approval process including the development of a plan to manage any conflict of interest or other legal issues posed by the proposed activity. Faculty members are also required to provide prompt disclosure of material changes in previously disclosed and approved consulting activities. All paid external consulting related to one’s area of expertise requires prior approval. When in doubt, all potential conflicts of commitment must be disclosed by the faculty member.

The proposal form shall provide the following information: the nature of the work to be performed; the name of the client; the period of time during which such activity is to be performed; the duration of the arrangement; details of the remuneration must be specified.

If remuneration by the external client exceeds twenty (20) percent of the faculty member’s total university academic salary, additional approval by the Dean will be required.

Personal consulting agreements between the consulting faculty member and the client must also be included with the proposal form. Although outside consulting arrangements are personal, inappropriate consulting agreement language accepted by a faculty member can create conflicts with his or her obligations to the university and negatively impact his or her ability to perform research and secure sponsored research funding, clinical service, and educational time commitment.

The major criteria to be used in determining whether a particular paid external consulting activity will be encouraged or permitted are:

- (a) The effect of the activity on the individual and the college, professionally and academically;
- (b) The extent to which the activity will complement the college's programs; and
- (c) The extent to which the activity will interfere with the effective discharge of the faculty member's responsibilities to the college.

Department chairpersons will recommend approval or denial of each proposal to the Dean of the COMLS (if the faculty member is a chairperson, this step is eliminated). The Dean of the COMLS, in consultation with the chairperson if applicable, will approve or deny the request. Whenever a proposal by a faculty member is disapproved by an official of the university, it is the obligation of that official to provide the faculty member, upon request, with a written statement of the reason for the decision. A faculty member may appeal a denied consulting proposal as described in the faculty appeals policy 3364-72-51.

The faculty member is responsible for ensuring that they are not in conflict with university policies and procedures or faculty rules and regulations because of their outside activities. Faculty members may seek their own legal counsel to advise them of their rights and obligations under a proposed consulting agreement and as they may relate to other consulting agreements already in existence.

Principal investigators/program directors must also disclose to research and grants administration their external financial interests and activities as set forth in the research financial conflict of interest policy, 3364-70-01.

Clinical Practice

- a. All Regular, Adjunct, Visiting, and Joint Faculty Members ("Regular Faculty" or "Faculty Members with Regular Appointments"), if they are legally qualified and duly appointed, may engage in clinical practice with prior approval of their chair or dean and to the extent that it does not interfere with the performance of primary duties and responsibilities at the University or impair the performance of the individual as a scholar, educator, researcher, or administrator or create a conflict of interest.

- b. In addition, faculty members with full-time appointments may engage in clinical practice only as clinical employees of the University, members of practice plans approved by the Board, or as contractors under a contract approved by the University or under special exceptions with the prior written approval of the Chair and Dean, as appropriate.

(2) Prohibited Activities

a) Use of university resources or employees

Faculty members are prohibited from performing consulting activities that involve the use of university-administered funds, facilities, equipment, supplies, or employees unless permission is obtained as specified in the bylaws, rules and regulations of the university, and the university is appropriately compensated.

(b) Use of university students

Faculty members must be especially sensitive to potential conflicts of interest between their teaching responsibilities vis-a-vis students and trainees working under their supervision and their outside activities. To avoid such conflicts, a university faculty member may not hire or directly supervise a university student in employment activities outside the university while simultaneously serving as either the student's professor, advisor, supervisor or as a participant in that student's dissertation committee without prior approval of the dean. Faculty must also comply with Policy 3364-81-01-004-01, Individual Conflict of Interest in Education and Clinical Care.

(c) Activities involving conflicts-of-interest under a University of Toledo policy when the conflict-of-interest cannot be managed, if applicable, pursuant to the policy. Examples of relevant policies include: Individual Conflict of Interest in Education and Clinical Care, Policy 3364-81-01-004-01; Research and Sponsored Programs Financial Conflict of Interest, Policy 3364-70-01; Conflict of Interest and Nepotism, Policy 3364-25-18. Additional conflict of interest policies are found on the University of Toledo policy website at <https://www.utoledo.edu/policies/content.html/#conflict>.

(d) Allocation of intellectual property rights

Consulting agreements that attempt to require assignment of patentable discoveries and/or other intellectual property resulting from activities that use university research funds or facilities, or that relate to the faculty member's scope of employment are in direct conflict with university patent policy 3364-70-04. An agreement between a faculty member and a third party may not allocate intellectual property rights to the investigator's inventions, technical

discoveries, or similar intellectual property in a manner inconsistent with the patent policy 3364-70-04.

(e) Use of university name

The university name shall not be used in relation to any consulting activities, except in describing an individual's credentials, and except in accordance with university policy. Faculty members engaged in outside activities must not use the university name in such a manner as to suggest institutional endorsement or support of a non-university enterprise.

(f) Consulting on research grants

In general, university faculty can not serve as paid consultants on research grants, agreements or contracts awarded to the university. When an outside agency contracts with the university to provide research, it agrees to reimburse the university for the costs of that work, except for any approved university cost-sharing. Appropriate reimbursement for all faculty efforts devoted to that sponsor should be included in that contract. Accordingly, it is not permissible for a sponsor to pay university faculty additional compensation (e.g., as a consultant) for the performance of the same work. See 3364-70-18 Faculty and staff compensation and budgeting for sponsored programs, and 3364-70-22 Principal investigator's responsibilities on sponsored projects.

(g) Participation in a Malign Foreign Talent Program.

(h) Ohio Ethics Law and Additional Conflict of Interest Policies.

In all instances, regardless of determinations made pursuant to this policy, employees must abide by protections to the public embodied in the Ohio Ethics Law and related statutes found in Chapters 102 and 2921 of the Ohio Revised Code, and as interpreted by the Ohio Ethics Commission and Ohio Courts. The Ohio Ethics Law prohibits certain activities in which an employee's personal or immediate family members' financial or business matters might intersect with university interests. Provisions of Ohio Ethics Law as applied to University of Toledo employees in their roles as public employees are outlined in UToledo Policy Number: 3364-25-50. Furthermore, as elaborated under Policy Number: 3364-25-18: Conflict of Interest and Nepotism, all employees of the State of Ohio must avoid situations in which they might gain personally because of the decisions they make or influence as public servants. The conduct and activities of all employees are also subject to the Bylaws of the Board of Trustees of the University (rule 3364-1-06 of the Administrative Code). Additional COI policies can be found on the University of Toledo policy website (View by Content

Area/Conflict of Interest or
<https://www.utoledo.edu/policies/content.html/#conflict>).

Faculty are personally responsible for any damages or claims for damages which may arise in connection with their paid external consulting activities. The limited immunity conferred by section 9.86 of the Ohio Revised Code does not apply to consulting activities.

<p>Approved by:</p> <hr/> <p>Imran I. Ali, MD Dean of the College of Medicine and Life Sciences and Vice Provost for Health Education</p> <hr/> <p>Date</p> <p><i>Review/Revision Completed by: Provost and Executive Vice President for Health Affairs, Faculty Governance Committee-HSC, HSC faculty</i></p>	<p>Policies superseded by this policy:</p> <ul style="list-style-type: none">• <i>03-011 Faculty Consulting (previous Health Science Campus policy, revision date 07/01/03)</i> <p>Initial effective date: January 1, 2008</p> <p>Review/Revision Date: n/a</p> <p>Next review date: January 1, 2010</p>
--	---