

SYSTEM REGULATIONS

31.05.01 Faculty Consulting, External Employment and Conflicts of Interest

July 31, 1996

Revised June 22, 2001

Supplements System Policy 31.05

1. GENERAL

This regulation applies to consulting and external professional employment by faculty members that is directly related to their academic and professional discipline. For unrelated external faculty employment see System Regulation 31.05.02, External Employment.

1.1 Definitions

1.1.1 "Consulting and/or external professional employment" (external employment) are defined as professional activity related to one's field or discipline, where a fee-for-service or equivalent relationship with a third party exists

1.1.2 The term "faculty" or "faculty member" includes those who serve in a full or part-time teaching, research, or extension specialist position, the qualifications of which require doctoral degrees and/or credentials strictly equivalent to those held by tenured and tenure-track faculty within the same discipline.

1.1.3 "Release time" refers to administratively approved time that a faculty member may spend away from his or her normal work duties for the purpose of engaging in consulting or other forms of external professional employment described in this regulation.

2. USE OF SYSTEM PROPERTY AND PERSONNEL

External employment is subject to the provisions of System Policy 33.04, *Use of System Property*, and System Regulation 33.04.01, *Use of System Resources for External Professional Activities*.

3. PUBLIC PURPOSE

The primary mission of the System is to serve the needs of the people of the State of Texas through education, leadership development, research, and service. The System is committed to allowing its faculty members to make their expertise and services available to business, industry, government, professional societies, and other appropriate entities. Such external services of a professional nature serve to strengthen the individual employee and contribute to improvement of education, leadership development, research, and service programs.

3.1 Other Activities

Certain activities, such as lecturing and writing book reviews and journal articles, are not normally considered external employment. The CEO may establish requirements that whenever such activity is to involve an honorarium or reimbursement for services it will be subject to the component's external employment procedures. System Policy 07.01, Paragraph 5.6, describes restrictions on the acceptance of honoraria.

4. STANDARDS OF CONDUCT

Standards of conduct of state officers and employees are established by law and in System Policy. Any employee who violates such standards through an external employment may be subject to appropriate disciplinary action, regardless of whether an application for the external employment has been approved.

4.1 Ethics

The Principles of Ethical Conduct that guide faculty members in external employment are in System Policy 07.01 in Sections 2.1, 2.5 and 2.8 which address financial interest, private gain and external employment. The Ethics Policy 07.01 should be utilized to resolve any issues of concern in regard to ethical conduct.

4.2 Conflict of Interest

The faculty member is responsible for the disclosure of any external employment which may constitute a potential conflict of interest. As guidelines regarding the type of activities deserving particular attention in assessing the potential for a conflict of interest, the following list is provided, but is not considered to be all-inclusive:

- (1) ownership of substantial equity in a commercial enterprise that carries on activities closely related to the employee's area of academic work;
- (2) holding of a line management position in a commercial enterprise;
- (3) participation in the day-to-day operations of a commercial enterprise;
- (4) assumption of a key, continuing role in the scientific and technical effort of a commercial enterprise;
- (5) transfer to a commercial enterprise of non-patented technology or information developed in System research programs and having potential commercial value; or
- (6) service as an expert witness or consultant in a lawsuit involving a sponsor of research or other entity having an agreement with the System or any System component.

Research conducted under contracts and grants from the National Science Foundation (NSF) and the Public Health Service (PHS), as well as such other sponsored research as CEOs may designate, is subject to System Regulation 15.01.03.

4.3 Equity or Business Ownership and Participation by Faculty in Entities Doing Business With The Texas A&M University System.

The mere fact of ownership by a faculty member of an equity interest or participation in a business entity having an agreement with the System or any component thereof is not *per se* a violation of law.

4.3.1 -- Certain additional requirements exist in state law regarding the obligations of a faculty member who conceives, creates, discovers, invents or develops intellectual property that is the subject of an agreement with the System relating to the research, development, licensing, or exploitation of that intellectual property.

- 1) If the faculty member owns an interest in a business entity having such an agreement, the faculty member must report the name of the business entity to the appropriate CEO on an annual basis
- 2) The faculty member may not serve as a member of the board of directors or other governing board or as an officer or employee of a business entity having such an agreement without approval of the Board of Regents. The faculty member must report the name of the business entity for which the person serves as a director, officer or employee to the appropriate CEO on an annual basis.

4.3.2 Ownership of a Substantial Interest

If a faculty member or a member of his or her immediate family holds a substantial interest in, or participates in the management or the conduct of affairs of a business entity having a contract with the System or a component, or if any work of the System and its faculty is being funded by the entity, the potential for a conflict of interest may arise. A faculty member has a "substantial interest" in a business entity if any of the following conditions exist:

- (1) the faculty member or immediate family member or any combination thereof has controlling interest in the business entity;

- (2) the faculty member or immediate family member has ownership in excess of ten percent of the voting interest in the business entity or in excess of \$25,000 of the fair market value of the business entity;
- (3) the faculty member or immediate family member has any participating interest, either direct or indirect, by shares, stock, or otherwise, whether or not voting rights are included, in the profits, proceeds, or capital gains of the business entity in excess of ten percent;
- (4) the faculty member or immediate family member holds the position of a member of the board of directors or other governing board of the business entity; or
- (5) the faculty member or immediate family member serves as an elected officer of the business entity, or is an employee of the business entity.

4.3.3 Disclosure by Faculty Member

It is the responsibility of the faculty member to fully disclose ownership of a substantial interest in a business entity doing business with TAMUS or a component to his or her department head or equivalent supervisor whether or not the substantial interest was owned prior to or acquired after the date on which the contractual relationship between the System and the business entity commenced. The department head or equivalent supervisor shall forward such information through administrative channels to the CEO or his or her designee who will make a determination as to whether a conflict of interest exists.

4.3.4 Service at Request of Board of Regents

Upon request of the Board of Regents, an employee may legally serve as a member of the board of directors or other governing board of a business entity having an agreement with the System or any component.

5. FINDING OF VIOLATION OF STANDARDS OF CONDUCT

If a principle of ethical conduct, conflict of interest or a conflict due to equity ownership and business participation of a faculty member is found, the System may require that the faculty member take steps to minimize and/or eliminate such conflict. The System reserves the right to cancel or require modification of the terms of any agreement whenever in its opinion a conflict of interest exists.

6. REQUESTING PERMISSION FOR EXTERNAL PROFESSIONAL EMPLOYMENT

6.1 Responsibility of Faculty Members

It is the obligation of faculty to inform their department heads or other immediate supervisors of all new and continuing external employment prior to entering into any agreement, including those dealing with intellectual property.

6.2 The Chancellor's authority to approve external employment that is permanent or semi-permanent in character, as specified in System Policy 31.05, is hereby delegated to the presidents and agency directors.

6.3 Component approval of external employment on an ongoing basis will be for no more than one year in duration.

6.4 Process for Approval

6.4.1 Each System component shall establish internal rules for the approval of external employment. a) Rules must ensure uniformly fair treatment among all classes of faculty members within the System component. b) The rules shall include the governance of release time. c) CEOs of each System component (or the CEOs jointly for joint employees) may establish limits on the amount of release time for external employment.

6.4.2 Requests for approval must certify that the requested release time for consulting/outside employment will not interfere with the performance of the faculty member's assigned duties and responsibilities within the System.

6.4.3 Request for approval of external employment must be made using a component [Faculty External Employment Application and Approval](#) form.

6.4.4 For faculty with joint appointments in a university or HSC and one or more component agencies, the president (or designee) must approve or disapprove such requests in consultation with the CEO (or designee) of the other System component. If the joint appointment involves two agencies, then the CEOs of the agencies must jointly approve or disapprove the request.

6.4.5 The faculty member's supervisor or department head will keep a record, if required by the rule, of individual absences from the employee's official place of duty for external employment activities. Requests for release time must be submitted for advance approval using the component form mentioned in section 6.4.2 above.

7. PART-TIME FACULTY

Part-time faculty are subject to all provisions of this regulation.

8. APPROVED EXTERNAL EMPLOYMENT FORMS

Each CEO of the System shall maintain a file of all approved external employment requests for the fiscal year which shall be retained for the fiscal year plus three years.

CONTACT FOR INTERPRETATION: The System Human Resources Office

HISTORY: Last version: July 31, 1996