

CONFLICT OF INTEREST, EXTERNAL EMPLOYMENT, AND CONSULTATION

I. POLICY

To ensure that the interests of the college are protected, it is imperative that college employees are appropriate in their business and personal dealings and with public service commitments. Employees are expected to avoid any situation where they use their college position to influence business transactions for their personal benefit or any business in which they may have an interest. Consultations and other employment activities may be carried out by full-time employees as long as the performance of such services does not interfere with the individual's service obligation to the institution.

II. REFERENCES

Utah Public Officers' and Employees' Ethics Act, Utah Code Ann. §§ 67-16-1–15.

III. DEFINITIONS

See [Human Resources Definitions](#).

IV. PROCEDURES

A. Conflict of Interest

1. Conflict of Interest Disclosure

- a. In order that potential conflicts of interest might be evaluated, employees are expected to make full disclosures to their supervisor, in writing, with a copy to the appropriate vice president of any involvement in situations where a conflict of interest might exist.

- b. Business Dealing With the College

- (1) Private Business Interests

- (a) Whenever a college employee owns a substantial interest in a commercial or other private organization that does business with the college:

(b) the employee should not represent or influence the college in its dealing with the organization;

(2) the employee's position should be disclosed in writing to his supervisor, the appropriate vice president, the organizational unit of the college that conducts such business; and

(3) special precautions should be taken to ensure that the terms of any business dealing are not influenced by such relationships.

2. Surplus Property

Neither an employee nor persons or organizations through whom the employee may benefit personally should purchase surplus property from the college if such employee participated in the college's decision to sell such property.

3. Research Projects as Business

a. Business dealing with the college as used in this section includes the administration or performance of a college-administered research program funded from outside the college.

b. An employee who has a private business interest and is a principal investigator on a research contract administered by the college should obtain the approval of the appropriate supervisor for the use of materials produced by the private business in the research project.

4. Employee Productivity

a. Employment Agreement

(1) Each employee is expected to understand the terms of his or her employment by the college and to give the full measure of time, talent, and loyalty to the college.

(2) Any activity or work pattern that lowers productivity is in conflict with this basic obligation; thus, any significant reduction in productivity attributable to other activities may itself suggest a conflict of interest.

(3) Factors to be considered by employees and supervisors together in evaluating the desirability and the risks of involvement in proposed outside interests include the following:

(4) The degree to which any outside interest (e.g., professional, business, church, and community service) materially and adversely affects an employee's performance at the college. Some such adverse effects could include:

(a) reduced activity;

(b) divided loyalties;

(c) inappropriate appearances; or

(d) unavailability for committee assignments and scheduled meetings when the activity is inconsistent with the goals of the college or the nature of the activity is in competition with the activities of the college or other units of the State System of Higher Education or the State of Utah.

5. Time Commitment

- a. Time is only one factor to be considered in evaluating productivity of both faculty and non-teaching personnel. However, a minimum time commitment is a basic element in any employee's obligation to the college.
- b. Regularly scheduled, productive, hourly work is expected of classified employees. If necessary, faculty and administrative personnel are expected to perform productively beyond the confines of normal college hours.

6. Non-Paid Activities

- a. Non-paid activities may be accepted by an employee as long as they don't interfere with the person's regular assignment or normal operation of the employee's department and that they are outside the normal working hours.
- b. Examples of non-paid activities could include speaking engagements, attendance at professional organization workshops and conferences, attendance at conventions, etc.

7. Other Conflicts of Interest

- a. Other circumstances which often give rise to a conflict of interest (and which should therefore be the subject of disclosure to an employee's supervisor and vice president) include:
 - (1) Serving outside research interests, undertaking college research to serve the needs of a private organization, or designing such research to meet those private needs, without consulting with one's supervisor.
 - (2) Influencing college purchases and contracts. Except with express authorization from the vice president of Finance and Administration to do so, negotiating, influencing or attempting to influence the negotiations of sales or purchases of goods or services, contracts or agreements between the college and a private organization.

8. Duplication of Research Service

- a. Engaging in similar research or other projects at the same time within both the college and a private organization without each organization knowing of the involvement of the other.
- b. Problem areas would include the clear separation effort, facilities use, and expenditure of funds.

9. Inside Information

- a. Use for personal gain or other unauthorized use of privileged information acquired in connection with college business.
- b. Such information would include confidential personal records, knowledge of forthcoming programs, site selections, or the selection of contractors, etc., in advance of public announcements.

10. Gifts and Favors

Acceptance of valuable gratuities (as defined in Utah Code Ann. § 67.16.1) or special favors from any individual, firm or organization with which the college does or may conduct business under circumstances which might influence or which might reasonably be interpreted as an attempt to influence the recipient in the conduct of his duties.

11. Commercial Use of Know How

Making beneficial commercial use of non-patentable, non-copyrightable information, other know-how or trade secrets developed by college employees on college time.

12. Personal Privileges

Using a college position to obtain personal privileges (except privileges available to all college employees) from persons or firms outside the college, without authorization, from the college itself.

13. College Affiliation and Private Projects

Permitting the use of an employee's college affiliation to give credibility or other material support to a private undertaking.

14. Disclosure of Opportunities

For the purpose of personal gain, failing to disclose to the college regarding financial, research, or other opportunities in which the college might reasonably be expected to have an interest.

B. External Employment

1. All employees of the college holding full-time salaried positions shall give full services to the work of the college during scheduled work periods.
2. Any non-college employment must not interfere with the discharge of the person's full-time service obligations to the college.
3. It is expected that all full-time college employees will treat the college as their prime employment activity.
4. Full-time employment is generally inconsistent with the acceptance of other employment on a continuous or permanent basis.
5. Full-time employment in an off-campus position or business enterprise in addition to full-time college employment is not permitted if that employment interferes with the performance of college assignments and schedules.
6. Each employee is responsible to inform his/her immediate supervisor in writing and receive approval of all external employment activities.
7. Denials may be appealed to the employee's second level supervisor.

8. In any case in which present or contemplated external employment is believed to involve a question as to a potential conflict of interest, the concerned individual shall seek advice from supervisors, and where appropriate, from the college's legal counsel by requesting an opinion through the assistant vice president of Human Resources.

9. Public Service

The college encourages public service activities that are not incompatible with full performance of college duties and not inconsistent with college policies and procedures.

10. Outside Academic Activity

- a. Full-time salaried employees may accept employment for, and may perform, any teaching, instructional, or research services for other academic institutions during teaching terms with the knowledge and written notification to the appropriate administrator and vice president/provost.
- b. Compensated or uncompensated participation in an occasional short-term conference, seminar, symposium, the delivery of a scholarly paper, public address at a professional meeting or academic gathering does not violate this policy.

C. Consultations

1. Consultation and other services to persons, firms, institutions, and agencies outside the college may be carried on by full-time salaried employees as long as the performance of such services does not interfere with the individual's service obligations to the college.
2. Employees accrue two days of consulting per month without any carryover from year to year (July 1 through June 30).
3. Employees are permitted to consult up to five consecutive workdays at any one time, but cannot exceed 24 days in one year.
4. Consulting is subject to the following restrictions:
 - a. If an individual uses unearned consulting time and terminates, the time off must be repaid.

- b. The college has no obligation to compensate employees for authorized consultation time that, for any reason, is not actually used. Consulting will be done at no cost to the college.
- c. Use of consultation time should provide professional enrichment and benefit both to the employee and to the college.
- d. The consultant must arrange in advance for a qualified replacement that is approved by the supervisor. All instructors are required to arrange for a replacement. Other employees must arrange for their replacements, when needed.
- e. Any absence from the college for the purpose of consultation services may be recorded as an excused absence for approved consultation only if the restrictions of this section have been satisfied.
- f. The appropriate administrator must approve, in writing, the time and dates of the consulting as well as the scheduling of classes or work assignments missed as a result of the consultation activities. The appropriate vice president/provost must also grant approval.
- g. Individual exceptions to this policy must be approved by the appropriate vice president/provost on recommendation of the appropriate administrator, subject to any specific conditions required by the vice president/provost.

5. Responsibilities of Consultants

- a. College employees engaged in consultation services authorized by this policy must assume the following responsibilities to assure compliance with this policy and with applicable legal requirements:
 - b. The college employee must advise the person, firm, or agency for whom such consultation services are to be performed that the employee, in his/her role as a consultant, is acting solely as an independent contractor, and not as an agent, employee, under the sponsorship, auspices, or control of the college.
 - c. The college assumes no responsibility whatever, express or implied, for the actions or omissions of the employee in his/her role as a consultant.
 - d. The college employee must personally assure that the conditions and limitations upon external consulting activities, as specified in this policy,

are fully satisfied, and must be prepared to document that fact if called upon to do so by an appropriate college officer.

6. Before entering into a consultation contract, the college employee must personally determine that the contemplated consultation activities and arrangements will not involve a conflict of interest with the individual's duties to the college that may be in violation of the Utah State Public Officers' and Employees' Ethics Act.
7. Such conflicts may occur if:
 - a. the consultant is or will be serving concurrently as a principal investigator under a contract or grant between the college and any business entity which the consultant serves as an officer, director, employee, or owns a substantial interest;
 - b. the consultant must disclose confidential information gained by his/her official college position;
 - c. using such confidential information for private gain or benefit; or
 - d. accepting consulting assignments which the consultant might expect would impair his/her independence of judgment in performance of official college duties.

8. It is the responsibility of the consultant to ensure that the consulting services do not compete with college programs and activities.
9. Outside Interests, Consulting, and other employment activities.
 - a. Consulting should be distinguished from other activities.
 - b. Consulting is defined to include only that outside activity that brings professional enrichment to the consultant and benefit to the college, whereas, other employment activities ordinarily benefits only the employee.
 - c. While other employment activities are not prohibited, they are not encouraged.

Date of last cabinet review: September 13, 2016

The originator of this policy & procedure is Human Resources. Questions regarding this policy may be directed to the originator by calling 801-957-4210.