8.1.1. Compensated Outside Services

Full-time faculty members appointed to The University of Tennessee agree to devote themselves to UT's mission of teaching, research, and public service. Fulfillment of these responsibilities demands a full-time, 100 percent commitment to normal University duties, including remaining current in the discipline to which the faculty member is appointed. For many faculty members, an important part of keeping up-to-date lies outside the classroom, laboratory, and library: it involves testing one's academic skills and abilities by applying them to real-world problems. The University encourages the faculty to engage in consulting and other related outside services which are associated with an individual faculty member's appointment and which develop his/her professional expertise. By these means, many faculty members improve their disciplinary skills; they serve educational institutions and professional organizations, business, industry, and government; and they bring positive recognition to The University.

The following policy has three governing ideas. One is that the faculty development and University "value" of compensated outside services is partly determined within the culture of the academic discipline; thus, rather than having a centralized and unilateral requirement, this policy largely delegates responsibility to the departmental level. Secondly, the policy calls for regular and open communications as means of promoting accountability. Finally, because other faculty activities (teaching, research, service) often are gauged as a percent-of-effort, this policy does the same for compensated outside service activities.

These policy guidelines primarily concern long-term or continual/recurring short-term arrangements between faculty members and clients. Occasional, short term non-recurring activities (which are typically not compensated except for modest honoraria) such as participation in symposia, accreditation visits, research paper presentations, exhibitions, or recitals are not covered by these guidelines, but faculty members must notify and secure approval from their department head1 in advance of such activities.

The provisions of this policy do not apply to income-generating activities covered by a specific Professional Activity Allowance Agreement (e.g., the practice agreements of faculty members in the UT, Memphis College of Medicine).

In the conduct of compensated outside services, faculty may not make any use of the name of The University of Tennessee or of any of its constituent institutions (e.g., campuses or institutes) for any purpose other than professional identification of the faculty member, nor may they claim any University or institutional responsibility for the conduct or outcome of such activities.

Each UT campus/institute shall have procedures to ensure that professional development is encouraged, within the context of each faculty member's meeting his/her regular University responsibilities in a timely and effective manner. By means of its faculty handbook, a campus/institute may adopt compensated outside services guidelines which are more restrictive than these University-wide policies (e.g., requiring the dean's approval instead of/in addition to the department head's for some provisions; restricting compensated outside services to activities, locations, or clientele outside of the faculty member's assigned UT responsibilities).

Campus/institute faculty handbook policies and procedures for resolving disputes ("appeals," "grievances") should be followed in instances where the faculty member and department head or dean are unable to reach the agreements required in the provisions of this policy.

The Office of the Senior Vice President will develop illustrative case studies and a workshop format to ensure that the policy is understood and consistently applied across the University.

This policy shall be in effect starting AY 1994-95, and shall be included in campus/institute faculty handbooks.

Provisions:
1. As part of the annual goal-setting/performance review process, each faculty member must

1"Department Head" is used herein to refer to the head, chair, director, etc. who serves as the administrative officer of the department or comparable unit in which the faculty member's primary appointment is held.
describe his/her general plans and general
percent of effort to be allocated to anticipated
compensated outside service activities for the
year ahead. Each faculty member and his/her
department head must agree on the faculty
development benefits will be gained by the
planned compensated outside services. During
the period prior to the next goal-
setting/performance review, significant
changes to this agreed-upon plan must be
reported to the faculty member's department
head, and the head's concurrence should be
sought.

2. As part of the annual goal-setting/performance
review process, each faculty member must
report his/her previous year's actual allocation
of effort regarding compensated outside
services on an effort certification form (which
will be developed/amended for this purpose).
This information also should be used as part of
subsequent annual goal-setting/performance
review process.

3. Nine-month faculty members are expected to
perform University-related activities for a
nine-month academic year. Thus, nine-month
faculty members should limit their total
compensated outside services to no more than
twenty percent (20 percent) over their total
(100 percent) University effort during a given
academic year, exclusive of non-academic year
course schedules (summer session, mini-term,
etc.) but including grants of released time. The
department head and dean may restrict
compensated outside service effort to less than
20 percent (e.g., if a faculty member's
performance of assigned activities is less than
satisfactory).

4. Nine-month faculty employed full-time on the
University payroll during the summer months
(e.g., summer school teaching, work on grants
and contracts), must ensure that their annual
compensated outside service activity is no
more than 20 percent over their total (100
percent) University effort per academic year.
For part-time summer employment, the limit
of compensated outside services will be
established by written agreement between the
department head and the faculty member.

5. Twelve-month faculty and staff members\(^2\) are
expected to perform University-related
activities for a twelve-month year. Thus,
faculty members on twelve-month
appointment are covered by the same
University of Tennessee Personnel Policies and
Procedures which apply to administrative or
professional personnel of the University.
However, to provide equitable treatment of
nine-month and twelve-month faculty, the
latter should normally limit their aggregated
compensated outside services to no more than
an additional twenty percent (20 percent) over
their total (100 percent) University effort—
including accrued annual leave taken and
grants of released-time—during a given
calendar year, upon approval of the
department head and dean.\(^3\) The department
head and dean may restrict a faculty member's
compensated outside service effort to less than
20 percent.

6. Faculty and staff on grants/contracts/awards
must adhere to requirements concerning
percent time service, expressed or implied.
Official regulations governing the
administration of Federal grants and contracts
allow extra services of faculty and other
professional employees to be charged to
Federal grants and contracts.

Charges for work performed on sponsored
agreements by faculty members during the
academic year will be based on the individual
faculty member's regular compensation. In no
event will charges to sponsored agreements,
regardless of the basis of computation, exceed
the proportionate share of base salary for that
period. Since intra-University consulting
during the academic year is assumed to be
undertaken as a University obligation
requiring no compensation in addition to full-
time base salary, the principle also applies to
faculty members who function as consultants
or otherwise contribute to a sponsored
agreement conducted by another faculty
member at the same institution.

In unusual cases, where consultation is
across departmental lines or involves a
separate or remote operation, and the work
performed by the consultant is in addition to
his/her regular departmental load, any charges
for such work representing extra compensation
above the base salary are allowable provided
that such consulting arrangements are
specifically provided for in the agreement or
approved in writing by the sponsoring agency.

Faculty members must ensure that
proposal documents are consistent with
campus/institute research policies.

7. During the academic year, activities
reimbursed by UT as extra service pay may be
counted as compensated outside service effort.

\(^2\)Including professional research staff.

\(^3\)“Dean” refers herein to the administrative officer to whom the department head reports.
The total of activities covered both by extra
service pay and compensated outside services
should not exceed 20 percent more than a
faculty member’s 100 percent of effort for the
academic year. Compensated outside services
performed on behalf of the UT Institute for
Public Service need not be included in the
above 20 percent.
8. Use of University facilities, equipment,
personnel, or students may not conflict with
regular University operations. With the
exception of facilities for the use of which there
are established procedures and fee schedules,
no unauthorized activity is permitted involving
a significant direct expense to UT or
significant use of University facilities,
equipment, or services. Faculty and staff
wishing to use such University resources to
conduct compensated outside services must
have an official written UT agreement
specifying the nature of work to be performed,
the kind of equipment, supplies, material or
services to be used, the extent of the use, and
the amount to be paid to the University. The
amount may not be less than the University's
cost or a fair market value. A written
agreement must be approved in advance by the
appropriate department head, dean/director,
and chief business officer.
9. Noncompliance with this policy on
compensated outside services may be
considered a negative factor in promotion and
tenure decisions, salary determinations, and
requests for released time, and other
institutional support (e.g., a faculty member's
compensated outside service activities may be
limited if his/her performance of assigned
activities is less than satisfactory). Serious
and/or continuing noncompliance also may
result in other sanctions (e.g., reductions in
allowable percentage of compensated outside
services, salary reduction, restitution for cost
of equipment, termination for adequate cause.

All parts of this policy on Compensated Outside
Services are intended to be consistent with the
University's other policies regarding conflict of
interest, ownership of commercial ventures,
intellectual property, Faculty Handbook provisions
regarding academic freedom, etc.

8.2.1.Conflict of Interest Policy
Objectivity and integrity are essential qualities
for employees of any organization and particularly
for those who are engaged in the service of a
comprehensive public university. If a public
university is to carry out its missions in the areas of
instruction, research, and public service with
unquestioned credibility, it is imperative its
employees maintain the highest levels of integrity
and objectivity in the performance of their duties
and responsibilities. Therefore, it is the purpose
of this policy to ensure objectivity and integrity on the
part of faculty and staff of The University of
Tennessee in areas relating to conflicts of interest
both real and perceived.

Applicability
This policy is applicable to all employees of The
University of Tennessee.

General Policy
Faculty and staff of The University of Tennessee
are to avoid at all times any actual or apparent
conflicts of interest between their duties and
responsibilities as employees and their interests
outside the scope of their University employment.
Generally, a conflict of interest exists whenever:
   1. The interests of an employee outside the scope
      of employment with the University interferes
      with or compromises the employee’s judgment
      and objectivity with respect to duties and
      responsibilities to the University, or
   2. An employee makes or influences University
      decisions or uses University resources in a
      manner that results in:
         a. Personal financial gain or financial gain
            for his or her immediate family members
            (Note: For purposes of this policy,
            “immediate family members” shall be
defined as the UT employee, his or her
spouse, and any minor children residing
with the employee.), or
         b. An unfair advantage to a third party
            outside the University.

State Laws and Regulations
In addition to the general policy above, state laws
and regulations specifically prohibit the following
conflicts of interest:
   1. Acceptance of rebates, gifts, or other things of
      value. All employees responsible for initiating
      requisitions are prohibited by Tennessee Code
      Annotated section 12-3-106 from accepting or
      receiving, directly or indirectly, any rebate,
gift, money, or other thing of value from any
person, firm, or corporation to whom a
contract for the purchase of materials,
supplies, or equipment may be awarded. This
statute also prohibits accepting or receiving
any promise, obligation, or contract for future
rewards or compensation from a contractor.
   2. Personal interest in any contract in which the
      University is or may be interested. All
employees who are in a position to select a contractor, to oversee work under a contract, or in any manner to superintend a contract in which the University is or may be interested are prohibited by Tennessee Code Annotated section 12-4-101 from being directly interested in the contract. An employee is directly interested if the contract is with:

a. the employee;
b. a business in which the employee is the sole proprietor;
c. a business in which the employee is a partner; or
d. a business in which the employee owns or controls the largest number of outstanding shares owned by any single individual or corporation (a "controlling interest").

Any interest which does not fall within the definition of a direct interest is an indirect interest and is also prohibited unless it is publicly acknowledged at the time of contracting.

If the employee, proprietorship, partnership, or corporation is the sole supplier of required goods or services in the county, the employee's interest will not violate this statute if it is publicly acknowledged at the time of contracting.

Violation of this statute carries a civil penalty requiring forfeiture of all pay and compensation received under the contract, dismissal from the employee's position, and ineligibility for the same or a similar position for ten years.

3. Selling goods to the University or any other state agency. All employees of the University are prohibited by the terms of Tennessee Code Annotated section 12-4-103 from bidding on, selling, or offering to sell any merchandise, equipment, material, or similar commodity to the University or any other state agency. This prohibition applies to sales by:

a. the employee;
b. a business in which the employee is the sole proprietor;
c. a business in which the employee is a partner; or
d. a business in which the employee owns or controls the largest number of outstanding shares owned by any single individual or corporation (a "controlling interest").

Sales by a business in which an employee owns less than a controlling interest are also prohibited unless the employee's interest is publicly acknowledged at the time of the sale.

if the employee, proprietorship, partnership, or corporation is the sole supplier of required goods in the county, the sale will not violate this statute if the employee's interest is publicly acknowledged at the time of the sale.

The prohibition of Section 12-4-103 continues for a period of six months after employment with the University terminates.

Violation of section 12-4-103 carries both civil and criminal penalties:

a. Civil. The employee must refund to the University or the state all amounts paid for the goods, plus eight percent (8%) interest.

b. Criminal. Violation of section 12-4-103 is a Class E felony.

4. Providing personal, professional, or consultant services to the University or any other state agency. Tennessee Code Annotated section 12-4-109 requires that all personal, professional, and consultant services to the University and other state agencies be procured in the manner prescribed by regulations of the State Department of Finance and Administration. Under those regulations, all employees are prohibited from contracting with the University or another state agency to provide personal, professional, or consultant services. This prohibition applies to contracts with:

a. the employee;
b. a business in which the employee is the sole proprietor;
c. a business in which the employee is a partner; or
d. a business in which the employee owns or controls the largest number of outstanding shares owned by any single individual or corporation (a "controlling interest").

This prohibition continues for a period of six months after employment with the University terminates.

5. Interests of spouse or minor child. For the purpose of applying every statute and regulation described above, the interest of a spouse or a minor child with whom the employee commingles assets is treated as the employee's interest.

6. Nepotism. Tennessee Code Annotated section 8-31-103 prohibits employees who are relatives from working within the same direct line of supervision whereby one relative is responsible for supervising the job performance or work activities of the other. The term "relative" means a parent, foster parent, parent-in-law, child, spouse, brother,
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foster brother, sister, foster sister, grandparent, grandchild, son-in-law, brother-in-law, daughter-in-law, sister-in-law, or any other family member who resides in the same household.

Reporting Requirements

A. General Requirement

The overriding intent of this policy is to require each employee to take the initiative in reporting any outside interests in which they are involved where there is an actual, potential, or apparent conflict of interest with his or her duties and responsibilities as an employee of The University of Tennessee. Thus, it shall be the responsibility of each employee to report, in writing, to his or her supervisor(s) all situations in which he or she is involved in an activity or relationship with another employer which poses an actual, potential, or apparent conflict of interest.

B. Specific Requirements

1. It shall be the responsibility of each campus and unit of the University to develop procedures for reviewing the information disclosed by employees to determine if conflicts of interest exist, and for working with employees to eliminate actual or apparent conflicts and prevent potential conflicts from occurring.

2. All new employees, at the time of initial employment, will be given a copy of the University's policy on conflict of interest, and the policy will be discussed with new employees during their employee orientation.

3. All new employees, at the time of initial employment, will be required to complete a reporting/disclosure form.

4. Senior administrative personnel as designated by the President or Executive Vice President will be required within 30 days of the start of each new fiscal year to complete and file with the Office of the General Counsel a new reporting/disclosure form.

5. All employees, other than senior administrative personnel, will be required to complete and submit to their supervisor(s) a new reporting/disclosure form only at such time as there is a need for such disclosure.

6. Once an employee discloses the existence of a potential conflict of interest situation in which he or she is involved, such as employment by or the holding of a financial interest in an outside firm, he or she must file a reporting/disclosure form each year as long as the potential conflict of interest exists.

Examples of Prohibited Conflicts of Interest

1. Soliciting or accepting gifts, gratuities, benefits, or favors of monetary value from a person or an organization (a) in return for influencing an employee in the discharge of his or her University duties, or (2) while being in a position to obtain favored treatment for or provide an unfair advantage to that person or organization.

2. Holding a financial interest (either by the employee or a member of his/her immediate family) in a private venture and procuring or influencing the procurement of goods or services from that venture for the University.

3. Selling anything (excluding copyrighted literary property such as books, stage plays, etc.) to the University while employed by the University or within six months after termination of active employment with the University.

4. Providing contracted personnel services to the University while employed by or within six months after termination of active employment with the University for which payments other than through payroll are made.

5. Using confidential or official University information in any manner that results in personal financial gain or that provides financial gain or an unfair advantage to a third party.

6. Holding an office or a management position in a private venture and (a) the venture is either in competition with the University, or (b) the individual uses his/her University position to obtain favored treatment for or to provide unfair advantage to that venture.

7. Holding a financial interest in excess of five percent (5%) of the total capital of a private venture and (1) the venture is either in competition with the University, or (2) the individual uses his/her University position to obtain favored treatment for or to provide unfair advantage to that venture.

Examples of Outside Interests to be Reported and Approved

1. Engaging in a dual employee relationship with University superiors or subordinates in a private venture.

2. Engaging in University research sponsored by an outside organization in which the researcher has ownership (excluding publicly traded stocks or bonds of a corporation).