

Article 19

CONFLICT OF INTEREST/OUTSIDE ACTIVITY

19.1 Policy.

(a) A faculty member is bound to observe, in all official acts, the highest standards of ethics consistent with the State of Florida's Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Florida Statutes), the advisory opinions rendered with respect thereto, and University policies and regulations.

(b) Nothing in this Article is intended to discourage a faculty member from engaging in outside activity in order to increase the faculty member's professional reputation, service to the community, or income, subject to the conditions stated herein. Nothing herein shall abridge faculty members' rights to academic freedom and freedom of expression guaranteed in Article 5.

19.2 Definitions.

(a) Inside Activity shall mean any activity a faculty member does as part of their assigned research, clinical, teaching, or service responsibilities, including University activities that form the basis for supervisory assessment of their University job performance.

(b) Institutional Expertise shall mean a faculty member's specialization in teaching, research, clinical, or creative activity at the University.

(c) "Outside Activity" refers to any compensated or uncompensated activity (other than Inside Activity) that is related to a faculty member's institutional expertise.

(d) "Reportable Outside Activity" shall mean any financial interest or Outside Activity that is required to be disclosed to the University for the purpose of determining a conflict of interest. Examples of regularly reportable and non-reportable activities are found in Appendix K.

(e) "Conflict of Interest" means a situation in which regard for a private interest leads to a disregard of a University duty or interest.

(f) "Conflict of Commitment" shall mean Outside Activities whose time of occurrence or duration would hinder the faculty member from carrying out Inside Activities. Outside Activities undertaken entirely during a time when the faculty member has no Inside Activities shall not constitute Conflicts of Commitment, although they may constitute Conflicts of Interest. Outside Activities that shall not constitute Conflicts of Commitment include Outside Activities undertaken entirely when the faculty member is not on appointment or contract with the university, such as summer Outside Activities undertaken by Faculty on 9-month contracts who have no summer appointment under the provisions of Article 8 or those undertaken when the faculty member is on appointment but conducted during times or frequencies that do not interfere with the faculty member's Inside Activities. Any potential conflict of commitment shall be addressed in the annual performance evaluation according to 10.3.

(g) “Relatives” are individuals related to each other in the following ways, whether by blood, adoption, marriage (in-laws/step), or other legal action: spouses, parents, grandparents, children, grandchildren, siblings, aunts/uncles, or nieces/nephews.

19.3 Conflicts of interest, including those arising from University or outside activities, must be resolved or managed to mitigate the conflict of interest. Faculty members are responsible for resolving such conflicts of interest, working in conjunction with their supervisors and other University officials.

19.4 Report and Approval of Outside Activity.

(a) Using the University’s reporting system at the beginning of each academic year, faculty members shall acknowledge their review of Article 19.4 (a) through (3) and shall report if they plan to engage in any Reportable Outside Activity as defined in Section 19.2(d) prior to engaging in the activity. Outside Activities inconsistent with preexisting outside sponsoring entities requirements may be an impermissible Conflict of Interest or Conflict of Commitment. The faculty shall not commit any act which would invalidate or jeopardize outside sponsorships and shall take any necessary steps to protect such interests.

(b) The report, as described in paragraph 19.4(a) regarding Reportable Outside Activity shall consist of, where applicable, the name of the employer or other recipient of services; the funding source; the location where such activity shall be performed; the nature and extent of the activity; and any intended use of University facilities, equipment, or services.

(c) A new report shall be submitted for Reportable Outside Activity previously reported at:
(1) the beginning of each academic year for Reportable Outside Activity of a continuing nature; and

(2) such time as there is a significant change in a Reportable Outside Activity (nature, extent, funding, etc.)

(d) If practicable, the faculty member shall submit the report at least thirty (30) days prior to engaging in the Reportable Outside Activity. If reported at least thirty (30) days in advance, a faculty member may assume tacit approval unless written disapproval is issued prior to the reported starting date. If it is later determined that the activity represents a conflict of interest, the faculty member must cease the activity, except as provided in 19.5 (b).

(e) Any Reportable Outside Activity that falls under the provisions of this Article and in which the faculty member is currently engaged but has not previously reported, shall be reported within sixty (60) days of the execution of this Agreement and shall conform to the provisions of this Article.

19.5 Rights to the Expedited Grievance Procedure.

(a) In the event the proposed Reportable Outside Activity is denied due to a conflict of interest, and the faculty member disagrees with that determination the faculty member may file a grievance under the expedited grievance procedure contained in Article 20. Alternatively, the faculty member may, within seven (7) days, seek a review in writing by the University Review Committee on Outside Activities and Conflict of Interest, or a subcommittee of at least three faculty members thereof, for an advisory opinion, unless the Committee has been consulted previously on this matter. The Committee shall render its opinion in writing within 7 days of

78 receipt of the faculty member's request. If the Committee concludes that the Reportable Outside
79 Activity could have been approved, it shall consult with the approving authority to seek resolution
80 of the matter. Should satisfactory resolution not be attained, the Committee may recommend to
81 the President that the activity be approved. If no resolution is attained within fourteen (14) days
82 from the date the faculty member receives the written opinion of the Committee, the faculty
83 member may file a grievance under the expedited grievance procedure contained in Article 20.

84 (b) The faculty member may engage in such Reportable Outside Activity pending a
85 resolution of the matter pursuant to Section 19.5(a).

86 (c) If the resolution of the matter is that there is a conflict of interest, the faculty member
87 shall cease such activity immediately and may be required to turn over to the University all or part
88 of compensation earned therefrom.

89 19.6 Use of University Resources. A faculty member engaging in any Outside Activity shall not
90 use the facilities, equipment, or services of the University in connection with such outside activity
91 without prior approval of the President or representative. Approval for the use of University
92 facilities, equipment, or services may be conditioned upon reimbursement for the use thereof.

93 19.7 No University Affiliation. A faculty member engaging in Reportable Outside Activity shall
94 take reasonable precautions to ensure that the outside employer or other recipient of services
95 understands that the faculty member is engaging in such Reportable Outside Activity as a private
96 citizen and not as an employee, agent, or spokesperson of the University.

97 19.8 Consensual sexual relationships with FSU students. The respect and trust accorded faculty
98 members by students, as well as the power exercised by faculty members in their department/unit
99 role, render consent suspect. Although consensual sexual relationships between persons of unequal
100 institutional power do not necessarily constitute sexual misconduct, there is an inherent conflict of
101 interest between making sexual overtures and exercising supervisory, evaluative, or other
102 institutional authority. A student in such a relationship may feel unable to freely decline or end the
103 relationship, which can expose the individual with greater institutional authority to allegations of
104 sexual misconduct. Furthermore, even when both parties have consented at the outset to sexual
105 involvement, this past or apparent consent may not remove grounds for a later report of sexual
106 misconduct.

107 (a) Consensual sexual relationships between faculty members and undergraduate students
108 initiated subsequent to the ratification of this article are a conflict of interest.

109 (b) Consensual sexual relationships between faculty members and graduate students initiated
110 subsequent to the ratification of this article are a conflict of interest when both parties are affiliated
111 with the same degree program, or department, and any circumstances in which the faculty member
112 directly or indirectly exercises evaluative, or supervisory authority over the student, or may be
113 reasonably expected to do so in the foreseeable future.

114 (c) For all University undergraduates as specified in Section 19.8(a), and for University
115 graduate students in a supervisory, evaluative, or similar relationship as specified in Section
116 19.8(b), it is also a conflict of interest if the faculty member intentionally initiates or accepts sexual
117 advances, makes sexual overtures or requests or intentionally engages in verbal or non-verbal
118 contact of a sexual nature with an individual student.

(d) Direct evaluative or supervisory authority includes any type of evaluative role. Examples of direct supervision of the student include teaching the student's class, serving as a thesis or dissertation director, instructor of record, member of the student's thesis or dissertation committee, member of the student's comprehensive or doctoral exam committee, and member of other committees where the focus is evaluation or supervision of the student's academic competence or the student's assistantship.

(e) Indirect evaluative or supervisory authority includes any circumstance where the faculty member holds institutional authority over the student or has academic responsibility over the student. Examples include mentoring, advising, participating in decisions regarding funding or other resources, or providing recommendations for admissions, employment, fellowships or awards. This includes when a faculty member is serving as an advisor in a formal tutoring program or student club.

(f) Relationships that pre-date one or both parties' faculty or student affiliation with the University and that otherwise would be prohibited under this article shall be promptly disclosed by the faculty member to their dean.

(g) An exception to the provisions of Article 19.8 may be requested in writing for review and approval by the Provost or representative, who may add conditions to mitigate any conflict of interest.

(h) All complaints will be subject to a threshold review to determine whether the matter warrants further investigation. Complaints filed after three years of the most recent sexual encounter will not meet the threshold to warrant further investigation.

(i) The faculty member who is the subject of an investigation beyond the threshold review under this section will be notified of the investigation and the allegations. This notification shall occur in writing as soon as practicable but no later than two (2) weeks after the determination that the threshold has been met.

(j) The faculty member will be permitted up to two representatives of her/his choosing with a reasonable time frame at any interview into any report of a violation of this section.

(k) At the conclusion of an investigation the faculty member will be provided with a written notification regarding the findings. The investigatory report will be available as a public record.

(l) Any disciplinary action taken as a result of the investigation may be grieved in accordance with Article 16.

19.9 Other relationships with students. Faculty members may not serve in a direct teaching or supervisory role for students who are relatives, as defined in this Article. When no other viable option exists, an exception may be requested in writing for review and approval by the Provost, who may add conditions to mitigate the possibility of bias.