

HOP 4.XX – Conflict of Interest, Conflict of Commitment, and Outside Activities

POLICY STATEMENT

By engaging in certain activities or work outside of UTSA, UTSA faculty or staff can enhance the mission of UTSA or provide important elements of their professional development relating to their UTSA responsibilities. Regents’ Rule 30104 permits UTSA employees to engage in outside board service, work, or activity, so long as the service, work or activity complies with the requirements of the Rule and does not violate State laws or U. T. System or UTSA rules or policies governing the conduct of employees (including ethics standards), provisions prohibiting conflicts of interest and of commitment, and the use of UTSA resources.

RATIONALE

This policy is intended to protect the credibility and reputation of UTSA, and its faculty and staff by providing a transparent system of disclosure, approval, and documentation of employee activities outside UTSA (including, without limitation, engaging in outside employment or outside board service and owning certain interests in business entities) that might otherwise raise concerns about conflicts of interest or conflicts of commitment. The policy also serves the purpose of ensuring compliance with State ethics laws and Regents’ Rules. Finally, it is intended to provide the framework for rules and procedures that will clearly delineate allowable outside activity.

SCOPE

This policy applies to all UTSA employees and sets standards under which they may engage in an Outside Activity. It also establishes additional disclosure and approval requirements for faculty and administrative and professional staff (A&P Staff), including part-time faculty and A&P Staff.

WEBSITE ADDRESS FOR THIS POLICY

Leave blank – website address will be inserted once policy is online.

RELATED STATUTES, POLICIES, REQUIREMENTS OR STANDARDS

UTSA or UT System Policies or the Board of Regents Rules & Regulations	Other Policies & Standards
Regents Rule 30104 Regents Rule 60306 UT System Policy 123 UT System Policy 134 UT System Policy 175 UT System Policy 180 UTSA HOP 2.34 UTSA HOP 3.04 UTSA HOP 10.04 UTSA HOP XXX (IP policy) UTSA HOP 2.34 Faculty Grievance Procedure	Texas Government Code 572 Texas Government Code 574 Texas Constitution, Article 16, Section 40

CONTACTS

(Required)

Directs questions or requests for exceptions to the policy to the Sponsoring Office, or to the offices or officers responsible for implementation, enforcement or assistance.

If you have any questions about **[Insert Policy name]**, contact the following office(s):

The Office of Academic Affairs

DEFINITIONS

A&P Staff: Those UTSA executive, professional, and administrative employees whose appointment is classified as “administrative and professional.”

Approval Authorities: The President has appointed the following individuals as the approval authorities under this policy:

- (1) For members of the full-time and part-time faculty: their department chair
- (2) For department chairs: their dean
- (3) For deans: the provost
- (4) For the provost: the president
- (5) For A&P Staff and others covered under this policy: their supervisor
- (6) For the President: the Executive Vice Chancellor for Academic Affairs and the Chancellor (see UTS 123)

Compensation: Any form of benefit, including but not limited to salary, retainer, honoraria or promised, deferred, or contingent interest as described in a written agreement.

Conflict of Commitment: A state in which a UTSA employee's activities on behalf of an outside association, or an activity, could directly or significantly interfere with the employee's fulfillment of their institutional responsibilities as created by competing demands on the individual's time allocation. A Conflict of Commitment exists whenever an employee's primary professional loyalty is not to the timely completion of his/her UTSA obligations.

Conflict of Interest: A significant outside interest of a UTSA employee or one of the employee's Immediate Family Members that reasonably appears to be related to the employee's institutional responsibilities and that could directly or significantly affect the employee's performance of those responsibilities. Employees should use their judgment in determining what activities could give the appearance to a reasonable person of interfering with their professional obligations to UTSA and should consider how reasonable individuals (including their supervisor and the general public) will view their outside interests.

Immediate Family Members: Include the following:

- (a) a spouse;
- (b) a dependent child or stepchild or other dependent, for purposes of determining federal income tax liability during the period covered by the disclosure statement; and
- (c) a related or non-related, unmarried adult who resides in the same household as the individual and with whom the individual is financially interdependent as evidenced, for example, by the maintenance of a joint bank account, mortgage, or investments.

Nature and Extent: The "Nature and Extent" of an outside activity (including an outside job/employment) will include major duties to be performed and the time commitment to and duration of the activity.

Outside Activity/ies: Faculty and A&P Staff are expected to transfer knowledge gained through professional or scholarly pursuits to applications that can benefit the general population. This practice is integral to UTSA's mission and enriches the experiences within the university community (e.g., teaching and scholarship). For the purposes of this policy, Outside Activities are those for which faculty and such A&P Staff do not act as employees of UTSA or which are not expected as part of their professional performance in his/her discipline or position. Examples of activities which are not considered outside activities because they are expected as part of professional performance include, but are not limited to, ad hoc reviewing for journals and funding agencies, presentation of colloquia and symposia at other institutions of higher education or research so long as these activities are not compensated beyond usual and customary expenses.

Outside Board Service: Service on any board, whether such service is compensated or uncompensated (other than for reimbursements for usual and customary expenses), except for service on (a) UTSA boards or boards created to serve UTSA, (b) religious boards or local religious congregations, or (c) the board of a municipality; neighborhood association; public, private or parochial school; youth sports or recreation league; affinity group such as the local orchid society or model train collectors club; and other similar outside boards on which the service is primarily personal rather than professional in nature.

Range of Compensation and/or Equity Value: The "Range of Compensation" or "Equity Value" of an outside activity will be disclosed or reported as falling within one of the following ranges:

- (1) uncompensated;
- (2) \$1-\$4,999;
- (3) \$5,000-\$9,999;
- (4) \$10,000-\$19,999;
- (5) \$20,000-\$39,999;
- (6) \$40,000-\$59,999;
- (7) \$60,000-\$79,999;
- (8) \$80,000 - \$99,999;
- (9) \$100,000 - \$149,999;
- (10) \$150,000 - \$199,999;
- (11) \$200,000 - \$249,999;
- (12) more than \$250,000;
- (13) amount cannot be readily determined;
- (14) (For Equity value only) If equity in a business entity, this represents ___% of the fully diluted value of the company at time of disclosure.

Substantial Interest in a Business Entity. For purposes of this policy, means:

- (1) a controlling interest;
- (2) ownership of more than 10 percent of the voting interest;
- (3) ownership of more than \$15,000 of the business' fair market value;

- (4) a direct or indirect participating interest by shares, stock, or otherwise (regardless of whether voting rights are included) in more than 10 percent of the profits, proceeds, or capital gains; or
- (5) service as an officer.

It does not include investments in mutual funds.

RESPONSIBILITIES

Faculty, Staff, and A&P Staff

1. Acknowledges, on an annual basis, their understanding of this Policy and the UT System policies.
2. For faculty and A&P staff, files and updates a Disclosure Form in a timely manner as required by this Policy.
3. Complete Disclosure Form by date designated and complete any updates as described in this policy in Section II.

Approval Authority

1. Reviews disclosures and grants approvals as appropriate as described in this policy.
2. When necessary, customize a management plan in consultation with discloser and designate an individual to monitor the management plan. Submit management plan to the approval authority's supervisor for approval.
3. When necessary, follows appeals process as described in this policy.

Approval Authority's Supervisor

1. When necessary, review management plan for approval.
2. When necessary, address appeals within 10 business days as described in this policy.

Conflict of Interest/Conflict of Commitment Committee

1. When necessary, address appeals within 15 business days as described in this policy.

PROCEDURES

- I. Standards Governing Outside Activities, Outside Board Service, Gifts, and Financial Interests: Any UTSA employee engaging in an Outside Activity, Outside Board Service, or receiving or acquiring financial interests or gifts will adhere to the standards outlined below. Any UTSA employee acting as an Approval Authority will approve an Outside Activity, Outside Board Service, or the ownership or acquisition of a Substantial Interest in a Business Entity only if the standards outlined below have been satisfied.
- A. Primary Responsibility to UTSA. The primary responsibility of UTSA employees is to accomplish the duties and responsibilities assigned to one's position of appointment.
 - B. Unmanaged Conflicts of Interest Prohibited. UTSA employees may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the employee's duties for UTSA.
 - C. Conflicts of Commitment Prohibited. Activities on behalf of outside entities or individuals must not interfere with a UTSA employee's fulfillment of his/her duties and responsibilities to UTSA. Such conflicts of commitment may arise regardless of the location of these work/activities (on or off campus), the type of outside entity (individual, for-profit, not-for-profit, or government), or the level of compensation (compensated or uncompensated).
 - D. Use of UTSA Property and other Resources. UTSA property and other resources may only be used as appropriate to UTSA's mission. Use of UTSA property or resources by a UTSA faculty or A&P Staff member for any Outside Activity or Outside Board Service must be explicitly approved by appropriate UTSA Approval Authority.
 - E. Time Allocation to Outside Activities and Outside Board Service.
 - 1. Faculty. Members of the faculty have flexibility in using their time to prepare for teaching and to engage in research, service and other scholarly activity. Other responsibilities, such as presenting lectures, being available to meet with students, and participating on university committees, have more rigid time demands. During time periods in which a faculty member holds a full-time appointment, the faculty member may be permitted to engage in Outside Activities and Outside Board Service that are not included in their UTSA duties so long as such activities and service do not exceed the equivalent of 20 percent of the employee's full-time obligation.
 - 2. A&P Staff. During the period of full-time employment with UTSA, members of the A&P Staff may engage in Outside Activities and Outside Board Service so long as such activities and service do not reduce the full-time obligation to UTSA. Such Outside Activities and Board Service are considered an overload and must not exceed 20 percent of the employee's full-time obligation.

II. Required Disclosures and Prior Approvals.

A. Disclosures only required for Faculty and A&P Staff.

The disclosure and approval processes in this HOP XX only apply to faculty members and A&P Staff members, whether they are full-time or part-time; however, the disclosure and approval requirements for full-time faculty and A&P staff differ from those that apply to part-time faculty and A&P staff. Other UTSA employees may request approval of Outside Activity or Outside Board Service from their supervisor or request a management plan, but their supervisor has discretion in whether or how he/she handles such requests.

B. General rules relating to disclosures under this HOP XX:

1. Information reported by a faculty member or an A&P staff member (full-time or part-time) under UTSA HOP 10.04 *Conflicts of Interest in Research and Intellectual Property* should not be re-disclosed under this policy.
2. If a faculty member or an A&P staff member (full-time or part-time) wishes to engage in an Outside Activity for which some or all of the relevant information is confidential, the Approving Authority may nonetheless approve the activity without requiring full written disclosure upon satisfaction that there is a compelling reason to treat the information confidentially and the activity is otherwise fully compliant with this HOP policy and all other applicable laws and UTSA and U. T. System policies.

C. Full-Time Faculty & Full-time A&P Staff: Annual Disclosure

1. Annual Disclosure—Retrospective Portion.

In the retrospective portion of his/her annual disclosure, each full-time member of the faculty or the A&P Staff shall disclose the following information owned or acquired in the past twelve (12) months:

- a. For Outside Activity/ies: the Nature and Extent and Range of Compensation (if any) of the following:
 - i. Any outside employment;
 - ii. Any other compensated Outside Activity;
 - iii. Any other Outside Activity if such activity may reasonably appear to create a Conflict of Interest or a Conflict of Commitment; and
- b. For Outside Board Service: the Nature and Extent and Range of Compensation (if any) of all Outside Board Service.
- c. For Substantial Interests in Business Entities as defined above: each such Substantial Interest owned by the faculty or A&P Staff

member if such interest may reasonably appear to create a Conflict of Interest;

- d. For gifts: any gift over \$250 to the faculty or A&P Staff member or his/her Immediate Family Members if such gift may reasonably appear to create a Conflict of Interest (Do not include gifts received from: parents, children, siblings, grandparents, grandchildren, or the same relatives of your spouse.);
- e. For Activity/ies of Immediate Family Members: the Nature and Extent of any activity (including board service, employment, any compensated activity or other activity) that may reasonably appear to create a Conflict of Interest; and
- f. For Immediate Family Members' Substantial Interests in Business Entities: each such Substantial Interest owned by an Immediate Family Member of the faculty or A&P Staff member if such interest may reasonably appear to create a Conflict of Interest.

2. Annual Disclosure—Prospective Portion.

In the prospective portion of his/her annual disclosure, each full-time member of the faculty or the A&P Staff shall disclose *for prior approval* the information below related to activities, board service, and interests that will continue or are planned for the next twelve (12) months. A full-time faculty or A&P staff member must receive prior approval, meet exceptions outlined in Section IV.A.4, and/or enter into an approved management plan before engaging in activities, board service or obtaining interests disclosed under this subsection.

- a. For Outside Activity/ies: the Nature and Extent and estimated Range of Compensation (if any) of the following:
 - i. Any outside employment;
 - ii. Any other compensated Outside Activity;
 - iii. Any other Outside Activity if such activity may reasonably appear to create a Conflict of Interest or a Conflict of Commitment; and
- b. For Outside Board Service: the Nature and Extent and estimated Range of Compensation (if any) of Outside Board Service.
- c. For Substantial Interests in Business Entities: each such Substantial Interest owned by the faculty or A&P Staff member if such interest would give the appearance of a conflict of interest to a reasonable person.

3. Nothing to Disclose in Annual Disclosure. If a full-time member of the faculty or the A&P Staff and (where applicable) his/her Immediate Family Members have not engaged in any activities, board service, or obtained any gifts or interests required to be disclosed in subsections III.C.1 and the faculty or staff member has no intention of engaging in any activities or service or obtaining any interests required to be disclosed under subsection III.C.2 above, then, the faculty or A&P

Staff member will attest to these circumstances in the annual disclosure.

- D. Full-Time Faculty & Full-time A&P Staff: Disclosing Matters as they Arise (between Annual Reports).
1. Each full-time member of the faculty or the A&P Staff will disclose for prior approval the information outlined below **ONLY IF** it is related to *activities, board service, or interests that may appear to a reasonable person to create a Conflict of Interest OR a Conflict of Commitment*.
 - a. For Potentially Conflicting Outside Activity/ies: the Nature and Extent and estimated Range of Compensation (if any) of the following:
 - i. Any outside employment, and
 - ii. Any other Outside Activity (whether compensated or uncompensated)
 - b. For Potentially Conflicting Outside Board Service: the Nature and Extent and estimated Range of Compensation (if any) of Outside Board Service.
 - c. For Potentially Conflicting Substantial Interests in Business Entities: each such Substantial Interest owned by the faculty or A&P Staff member.
 2. A full-time faculty or A&P staff member must receive prior approval; meet exceptions outlined in Section IV.A.4.; and/or enter into an approved management plan before engaging in activities, board service or obtaining interests disclosed under this subsection.
- E. Full-Time Faculty & Full-time A&P Staff: Uploading Disclosures to UT System Database. Information contained in disclosures of Outside Activity/ies, Outside Board Service, and Substantial Interests in Business Entities as required in subsections III.C.1.a-c; III.C.2 and III.C.4 above, documentation of requests for approval, and subsequent approvals required above, shall be maintained for all full-time faculty and A&P Staff in an accessible and searchable electronic database.
- F. Part-Time Faculty & Part-time A&P Staff: Disclosing Matters as they Arise.
1. Each part-time member of the faculty or the A&P Staff will disclose for prior approval the information outlined below **ONLY IF** it is related to *activities, board service or interests that may reasonably appear to create a Conflict of Interest*.
 - a. For Potentially Conflicting Outside Activity/ies: the Nature and Extent and estimated Range of Compensation (if any) of the following:
 - i. Any outside employment, and

- ii. Any other Outside Activity (whether compensated or uncompensated)
 - b. For Potentially Conflicting Outside Board Service: the Nature and Extend and estimated Range of Compensation (if any) of Outside Board Service.
 - c. For Potentially Conflicting Substantial Interests in Business Entities: each such Substantial Interest owned by the faculty or A&P Staff member.
 - 2. A part-time faculty or A&P staff member must receive prior approval; meet exceptions outlined in Section IV.A.4; and/or enter into an approved management plan before engaging in activities, board service or obtaining interests that are required to be disclosed under this subsection.
- III. Resolve Doubts in Favor of Disclosure. If a faculty member or an A&P Staff member (full-time or part-time) is not sure whether an Outside Activity, Outside Board Service, a gift or a Substantial Interest in a Business Entity should be disclosed, then he/she should disclose it. If the Approving Authority determines that the disclosure was not necessary, information relating to the disclosure may be removed from the disclosure statement.
- IV. Granting Approvals.
- A. Approval Requirements.
1. Approval Authorities are responsible for granting approval for Outside Activities, Outside Board Service, and interests listed on a disclosure if:
 - a. the activity, service or interest would not appear to a reasonable person to create a Conflict of Interest or, where applicable, a Conflict of Commitment or
 - b. no Conflict of Commitment (if applicable) is found and any identified Conflict of Interest associated with Outside Activities, Board Service, or interests has been managed in an approved management plan as described in section IV.C. of this policy.
 2. Approval Authorities should also approve the use of any UTSA resources as required in Section I.D., above, and confirm that research data, confidential information or intellectual property of UTSA is being protected. (See UTSA HOP XX—IP Policy).
 3. Approvals are expected to occur in a timely manner both following the annual disclosure (for full time faculty and A&P staff members) and as disclosers (all faculty & A&P staff) update their disclosure throughout the year with activities, board service, or interests as they arise.
 4. Prior approval will be received or a management plan will be in place before an employee begins work on the Outside Activity or Outside Board Service or acquires the Substantial Interest in a Business Entity unless one of the following applies:

- a. Retroactive Approval: In rare instances, outside activity may be approved retrospectively when the employee is called upon to assist in an emergency or urgent situation where it would be impossible or unreasonable to obtain advance approval. In such cases, the activity must be fully disclosed and approval sought from the appropriate Approval Authority as soon as reasonably possible.
 - b. Prospective Approval: Some activity may also be prospectively approved, for up to one year, when an employee describes to the Approval Authority as fully as reasonably possible the general Nature and Extent of anticipated, but not confirmed, outside opportunities.
- B. Categories of Outside Faculty Activity. These categories can be used to guide Approval Authorities in granting approval of Outside Activity when they are disclosed by faculty.
- 1. Some activity is so integral to UTSA's mission that it is expected as part of the faculty member's institutional responsibilities. Only in rare instances will these types of activity appear to a reasonable person to create a Conflict of Interest or Commitment and only in these rare instances should these activities be disclosed to the approving authority for approval. These kinds of activities may include, but are not limited to, the following:
 - a. Serving on a federal, state, or local government agency, committee, panel, or commission.
 - b. Acting in an editorial capacity for a professional journal.
 - c. Reviewing journal manuscripts, book manuscripts, or grant or contract proposals.
 - d. Attending and presenting talks at scholarly colloquia and conferences.
 - e. Developing scholarly communications in the form of books or journal articles, movies, television productions, and similar works, even when such activities result in financial gain, consistent with intellectual property and other applicable System and institution policies and guidelines.
 - f. Serving as a committee member or as an officer of a professional or scholarly society.
 - g. Accepting a commission for an artistic work or performance that is considered an integral part of a faculty member's academic portfolio (e.g., a work of art or a dance performance).
 - 2. Another category of Outside Activity that, when approved, is permitted and encouraged is that which would not appear to a reasonable person to create a Conflict of Interest, does not interfere with the faculty member's UTSA duties and responsibilities, and clearly contributes to UTSA's mission or provides important elements

of the faculty professional development related to their UTSA duties and responsibilities. This category includes providing expert testimony, providing consulting services, professional/clinical practice, and serving on a board of directors.

3. Faculty members may also engage in activity that does not necessarily contribute to the mission of UTSA or provide elements of faculty professional development related to their UTSA duties and responsibilities, if such activity would not appear to a reasonable person to create a Conflict of Interest or interfere with the faculty member's UTSA duties and responsibilities. Any such activity must take place only on non-UTSA time and requires disclosure and approval.

C. Management plans. Management plans must be in place for all faculty and A&P Staff for Outside Activities, Outside Board Service, and Substantial Interest in a Business Entity that may create a Conflict of Interest before the activity begins. Management plans will be customized by the appropriate Approving Authority in consultation with the discloser and will designate who will be responsible for monitoring the activity to ensure compliance with the plan. Management plans will be presented to the Approving Authority's supervisor for review and final approval.

D. Rescinding Approval. An Approving Authority may rescind approval of an activity, service, other interest, or a management plan upon receipt of information indicating that the approved activity, board service or interest has changed substantially and is no longer consistent with this policy or any applicable law or UTSA or U.T. System policy or that the management plan has failed to ensure such consistency with policy and law.

V. Appealing an Approving Authority's Decision. .

- A. If an approval required under this HOP XXX is denied or an approval or management plan is rescinded, the faculty member or A&P Staff member may request that the Approving Authority reconsider the decision by providing an explanation in writing and submitting any documentation in support of his/her request. After reviewing all information and materials submitted by the employee, the Approving Authority in writing may affirm his/her original decision or grant the employee's request.
- B. If the Approving Authority affirms his/her original decision to deny approval or rescind a management plan, the employee may send the Approving Authority a written request asking that the decision be appealed. Within 10 business days of receiving this request, the Approving Authority will forward materials submitted by the employee and information relating to the Approving Authority's decision to the Approving Authority's supervisor. This supervisor will review the

materials forwarded by the Approval Authority and within 10 business days make a final decision to grant the employee's request, to affirm the Approval Authority's decision, or take such other action as he/she determines is in the best interests of UTSA.

- C. If the employee remains unsatisfied with the supervisor's decision, they may request that the University Conflict of Interest/Conflict of Commitment committee review the decision. (See HOP 10.04 for composition of the COI/COC committee.) The COI/COC committee may either affirm the Approval Authority and/or Supervisor's decision or take such other action as the committee determines is in the best interests of UTSA. The COI/COC committee shall make their determination within 15 business days.
- D. If the employee remains unsatisfied with the COI/COC Committee's decision, he or she may access standard UTSA grievance procedures. (See UTSA HOP 2.34 for faculty grievance procedures and HOP 3.04 for grievances by non-faculty employees.)

VI. Miscellaneous.

- A. Noncompliance. Noncompliance with this policy may subject a UTSA employee to discipline in accord with applicable procedures up to and including termination of employment.
- B. Education and Training. Education and training requirements are described in [DESIGNEE'S WEBSITE].
- C. Other Resources. (Add some names of people who can be contacted when there are questions in specific areas?)

SPECIAL INSTRUCTIONS FOR INITIAL IMPLEMENTATION

(Optional)

Summarizes any one-time requirements related to initial implementation.
Transfer information from your policy proposal.

FORMS AND TOOLS/ONLINE PROCESSES

(Optional)

Contains Forms/Online Processes, or links to forms and processes, with information on

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how to obtain any forms or perform any online processes required for compliance with the policy.

APPENDIX

(Optional)

Appendices contain informational material that is helpful, but not directly related to the implementation of the policy. All of the information included the appendices should be arranged under additional subheading(s) within the section.

DRAFT