

## **ELIZABETH CITY STATE UNIVERSITY Conflicts of Interest and Commitment Policy**

### **Preamble**

All EHRA Faculty members and non-Faculty EHRA staff (“Covered Employees”) of Elizabeth City State University (ECSU) are subject to policies concerning conflicts of interest and conflicts of commitment affecting ECSU employment and external professional activities. This policy is based on policies and guidelines adopted by the UNC system Board of Governors, federal and state law, and federal agency sponsor requirements.

### **1. Definitions**

- A.** Business means any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust, or any other legal entity organized for profit, not-for-profit, or charitable purposes.
- B.** Conflict of commitment relates to an individual’s distribution of time and effort between obligations to his or her ECSU employment and one’s participation in other activities outside of ECSU employment. The latter may include such generally encouraged extensions of professional expertise as professional consulting (i.e. External Professional Activities for Pay). Such activities promote professional development and enrich the individual’s contributions to the institution, to the profession, and to society. However, a conflict of commitment occurs when the pursuit of such outside activities involves an inordinate investment of time that interferes with the Covered Employee’s fulfillment of ECSU Employment Responsibilities.
- C.** Conflict of interest relates to situations in which financial or other personal considerations, circumstances, or relationships may compromise, may involve the potential for compromising, or may have the appearance of compromising a Covered Employee’s objectivity in fulfilling ECSU duties or responsibilities, including research, service and teaching activities and administrative duties. The bias that such conflicts may impart can affect many ECSU responsibilities, including decisions about personnel, the purchase of equipment and other supplies, the selection of instructional materials for classroom use, the collection, analysis and interpretation of data, the sharing of research results, the choice of research protocols, the use of statistical methods, and the mentoring and judgment of student work. A Covered Employee may have a conflict of interest when he or she, or any member of that person’s immediate family has a personal financial interest in an activity that may affect decision making with respect to his or her employment responsibilities. While a Conflict of Interest may result from nonfinancial interests or considerations, the overwhelming majority of Conflicts of Interest result from a Financial Interest of a Covered Employee who is in a position to make a supervisory, academic, or administrative decision that may be compromised because of potential gain from a Financial Interest.

- D.** Covered Employee is defined as any faculty or EHRA non-faculty person employed by the University of North Carolina or a Constituent Institution or other agency or entity of the University of North Carolina. SHRA employees and other key personnel or students who make a significant contribution to a sponsored project would also be considered Covered Employees.
- E.** Department means an academic department, a professional school without formally established departments, or any other administrative unit designated by the chancellor of an institution or by the president for the office of General Administration, for the purposes of implementing this policy. “Department Head” refers to the person with supervisory responsibility for the Covered Employee, whether in an academic or non-academic department.
- F.** ECSU employment responsibilities include both “primary duties” and “secondary duties.” Primary duties consist of assigned teaching, scholarship, research, institutional service requirements, administrative duties and other assigned EHRA employment duties. Secondary duties consist of professional affiliations and activities undertaken by Covered Employees outside of the immediate ECSU employment context that redound to the benefit of the profession and to higher education in general. Such endeavors, which may or may not entail the receipt of honoraria (See also UNC Policy Manual 300.2.2.2[R]) or the reimbursement of expenses, include membership in and service to professional associations and learned societies; membership on professional review or advisory panels; presentation of lectures, papers, concerts or exhibits; participation in seminars and conferences; reviewing or editing scholarly publications and books without receipt of compensation; and service to accreditation bodies. Such integral manifestations of one’s membership in a profession are encouraged, as extensions of ECSU employment, so long as they do not interfere with the timely and effective performance of the individual’s primary ECSU duties or ECSU policies. The goal of this policy is to ensure that all conflicts of interest or commitment are disclosed so that appropriate administrative interventions may eliminate, avoid, or manage them. These policies, however, are not intended to limit responsible external activities.
- G.** “Executive Position” refers to any position that includes responsibilities for a material segment of the operation or management of a business, including Board membership.
- H.** External Professional Activities for Pay means any activity that 1) is not included within one’s ECSU employment responsibilities; 2) is performed for any entity, public or private, other than the University employer; 3) is undertaken for compensation; and 4) is based upon the professional knowledge, experience and abilities of the Covered Employee. Activities for pay not involving such professional knowledge, experience and abilities are not subject to advance disclosure and approval requirements of this Policy, although they are subject to the basic requirement that outside activities of any type not result in neglect of primary ECSU duties, conflicts of interest, inappropriate uses of ECSU’s name or resources, or claims of ECSU responsibility for the activity. External activities for pay of

employees covered by the State Human Resource Act are addressed in the State Personnel Act, Section 3 Employment and Records, Secondary Employment.

- I.** Financial Interest is defined as:
  - i. Payment for services to the Covered Employee not otherwise defined as institutional salary (e.g. consulting fees, honoraria, paid authorship);
  - ii. Equity or other ownership in publically or non-publicly traded entities (e.g. stock, stock options, or other ownership interests); or
  - iii. Intellectual property rights and interests upon receipt of income related to such rights and interests, held by the Covered Employee or members of his/her extended family.
  
- J.** The "Immediate and/or Extended Family " of a Covered Employee to include a person's spouse, life-partner, dependent children and/or any person living in the employee's home or one who has a close personal/influential relationship with the employee.
  
- K.** Inappropriate use or exploitation of ECSU resources means using any services, facilities, equipment, supplies, or personnel that members of the general public may not freely use. A person engaged in professional activities for pay may use with prior approval from their Department Head, in that connection and within reason, his or her office and publicly accessible facilities such as ECSU libraries; however, an office shall not be used as the site for compensated appointments with clients, e.g., for counseling or instruction. Under no circumstances may a supervisory employee use the services of a supervised employee during ECSU employment time to advance the supervisor's external professional activities for pay.
  
- L.** Income from investment vehicles, such as mutual funds or retirement accounts in which the Covered Employee or member of his/her immediate family do not directly control the investment decisions and intellectual property rights assigned to the Institution and agreements to share in royalties related to such rights are excluded from the definition of Financial Interest.
  
- M.** "Participate" means to be part of the described activity in any capacity, including but not limited to serving as the principal investigator, co-investigator, research collaborator or provider of direct patient care. The term is not intended to apply to individuals who provide primarily technical support or who are purely advisory, with no direct access to the data (e.g., control over its collection or analysis).
  
- N.** Significant Financial Interest is defined as payments for services and/or equity interests, including any payment and/or equity interest in non-publically traded entities exceeding \$5,000. Significant financial interest does not include:
  - i. Salaries, royalties, or other remunerations paid by the ECSU to the Covered Employee if the Covered Employee is currently employed or otherwise appointed by the University;
  - ii. Intellectual property rights assigned to ECSU and agreements to share in royalties

- related to such rights;
- iii. Any ownership interest in University held by the Covered Employee;
  - iv. Income from investment vehicles, such as mutual funds and retirement accounts, so long as the Covered Employee does not directly control the investment decisions made in these vehicles;
  - v. Income from seminars, lectures, or teaching engagements sponsored by a federal, state, or local government agency public or non-profit; at an institution of higher education; or
  - vi. Income from service on advisory committees or review panels for a federal, state, or local government agency, an institution of higher education, an academic teaching hospital, a medical center or a research institute that is affiliated with an Institute of higher education.
- O.** "Sponsored Programs" means research, public service, training and instructional projects involving funds, materials, or other compensation from outside sources under grants, contracts, or cooperative agreements.
- P.** "Technology" means any process, method, product, compound, drug, device, or any diagnostic, medical, or surgical procedure developed using ECSU time, facilities, equipment, or funds whether intended for commercial use or not.

## **2. Policies**

### **A. Conflict of Interest**

Covered Employees shall recognize and avoid potential and perceived conflicts of interest that may compromise; may involve the potential for compromising; or may have the appearance of compromising the Covered Employee's objectivity in fulfilling ECSU Employment responsibilities, including and other sponsored research activities. Accordingly, outside activities and financial interests must be disclosed by Covered Employees on an annual basis. This notwithstanding, Covered Employees have a continuing obligation to timely update these disclosures as new external interests develop. Outside activities and financial interests should be arranged to avoid circumstances that do or may prevent or limit objectivity in the performance of ECSU Employment Responsibilities or that otherwise do or may adversely affect any ECSU interests.

### **B. Conflict of Commitment**

Questions about conflict of commitment are more easily resolved than questions about conflicting financial interests. Although full-time faculty and other non-faculty EHRA employment is not amenable to precise, time-clock analysis and monitoring, administrators at the department and school levels are able to and regularly do evaluate the work of employees within their jurisdiction. The formal occasions for determining whether an individual is devoting sufficient time and effort to ECSU employment includes regular reviews of performance in connection with annual salary decisions and scheduled reviews incident to promotion, reappointment or tenure decisions. In addition, complaints from students, colleagues, or administrators about possible failures to meet assigned

responsibilities may arise and require investigation. The issue, in each case, is whether the employee is meeting the requirements of the job. If presented with evidence that he or she is not meeting full-time responsibilities to ECSU, the ECSU Policy Manual 200.3.4 prescribes that "neglect of duty" is grounds for disciplinary action, including the possibility of discharge. The following describe instances of activities that require specific monitoring to demonstrate compliance with policies.

#### External Professional Activities for Pay

ECSU seeks to appoint and to retain, as employees, individuals of exceptional competence in their respective fields of professional endeavor. Because of their specialized knowledge and experience, such persons have opportunities to apply their professional expertise to activities outside of their ECSU employment, including secondary employment consisting of paid consultation with or other service to various public and private entities. Through such practical, compensated applications of their professional qualifications, ECSU employees enhance their own capabilities in teaching, research, and administration. Thus, participation of employees in external professional activities for pay, typically in the form of consulting, is an important characteristic of academic employment that often leads to significant societal benefits, including economic development through technology transfer. However, such external professional activities for pay are to be undertaken only if they do not:

- i. Create a conflict of commitment by interfering with the obligation of the individual to carry out all ECSU Employment Responsibilities in a timely and effective manner; or
- ii. Create a financial conflict of interest vis-a-vis the individual's status as an employee of the ECSU; or
- iii. Involve any inappropriate use or exploitation of ECSU resources; or
- iv. Make any use of the name of the University of North Carolina or any of its constituent institutions for any purpose other than professional identification; or
- v. Claim, explicitly or implicitly, any ECSU or institutional responsibility for the conduct or outcome of such activities.

Covered Employees shall devote their primary professional loyalty, time, and energy to their ECSU employment responsibilities, including research activities. Accordingly, Covered Employees shall not engage in activities outside of their employment that involves an inordinate investment of time that interferes with the Covered Employee's obligations to students, to colleagues, and/or to missions of ECSU. Such activities are unacceptable outside activities. Conflicts of commitment may also arise in connection with non-compensated activities and a conflict of commitment may exist notwithstanding that a Covered Employee received no economic benefit from the outside activity. The issue, in each case, is whether the employee is meeting the requirements of the job (as such responsibilities and requirements may be defined by applicable ECSU policy and as may be further described in an individual's job description or appointment letter).

The *UNC Policy Manual*, 300.2.2.1 [R], contains regulations and procedures established

to monitor possible conflicts of commitment, including mandatory pre-approval at appropriate university levels of external professional activities for pay. A Covered Employee who wishes to engage in external professional activity for pay must adhere to these regulations to provide satisfactory assurances that such activity will not interfere with ECSU employment obligations. These regulations may not apply to Covered Employees serving on academic year (9-month) contracts, if the external professional activity for pay is wholly performed and completed outside of the contract service period and the activity does not conflict with the ECSU policy statements or Board of Governors and is not conducted concurrently with a contract service period for teaching, research, or other services to the institution during a summer session.

In those instances when state-reimbursed travel, work time, or resources are used or when the activity can be construed as related to the Covered Employee's ECSU Employment Responsibilities on behalf of the State, the employee shall not receive any financial consideration, including honorarium. In these instances, the employee may request that the honorarium be paid to the ECSU. The honorarium may be retained by the employee only for activities performed outside of normal working hours, as defined by the institution, or while the employee is on earned paid or vacation or annual leave, if all expenses are the responsibility of the employee or a third party that is not a State entity. Such third party support should be disclosed by updating the Covered Employee's COI disclosure. In addition, senior academic and administrative officers may also be subject to special regulations regarding honoraria which require leave to be taken when external activities for pay will take place during the regular work week. Please refer to the *UNC Policy Manual*, 300.2.2.2 [R].

Instead of using earned paid or annual leave as set out above, pursuant to principles of public accountability, employees who are exempt from the Fair Labor Standards Act and who are out from work due to an external professional activity for pay, or who wish to retain an honorarium, may choose to use periodic uncompensated leave rather than annual leave.

External professional activities for pay performed for another UNC Constituent Institution or agency of the State of North Carolina also must comply with applicable State policies governing dual employment and compensation, unless an exception to those State policies is expressly authorized by the Chancellor or the President.

The Board of Governors has also established rules for monitoring and regulating the involvement of ECSU employees in political candidacy and office-holding that could interfere with full-time commitment to ECSU duties. Please refer to ECSU Policy Manual, 200.1.11 and the *UNC Policy Manual*, 300.5.1 et seq. for specific policy details.

### **3. Categories and Examples of Potential Conflicts**

Activities that may involve financial conflicts of interest may be categorized under four general headings: first, those that are allowable and are disclosed; second, those that are

allowable with further administrative review and analysis and are disclosed; third, those that generally are not allowable and require an approved conflict of interest management plan; and fourth, those that are not allowable under any circumstances. The following examples are merely illustrative and do not purport to include all possible situations within the four categories:

**A. Category I. Activities that are allowable and are disclosed**

The examples cited below involve activities external to ECSU employment, and thus may present the appearance of a financial conflict of interest, but have little or no potential for affecting the objectivity of the Covered Employee's performance of Institutional Employment Responsibilities; at most, some such situations could prompt questions about conflicts of commitment.

- i. A Covered Employee receiving royalties from the publication of books or for the licensure of patented inventions subject to the ECSU Patent and Copyright Procedures (ECSU Policy Manual 900.1.1) and the UNC Patent and Copyright Policies.
- ii. A Covered Employee receiving compensation in the form of honoraria or expense reimbursement, in connection with service to professional associations, service on review panels, presentation of scholarly works and participation in accreditation reviews.

**B. Category II. Activities requiring disclosure for further administrative review and analysis**

The examples cited below suggest a possibility of conflicting interests that can impair objectivity, but disclosure and resulting analysis of relationships may render the activity permissible and may result in the establishment of an approved management plan.

- i. A Covered Employee requiring students to purchase the textbook or related instructional materials of the employee or members of his or her immediate family, which produces compensation for the employee or family member.
- ii. A Covered Employee receiving compensation or gratuities from any individual or entity doing business with ECSU. Note that no university employee may seek or receive any gift, reward, or promise of reward for recommending, influencing, or attempting to influence the award of a contract by his or her employer (See G.S. 14-234 and G.S. 138A).
- iii. A Covered Employee serving on the board of directors or scientific advisory board of an enterprise that provides financial support for ECSU research and the employee or a member of his or her immediate and/or extended family may receive such financial support.
- iv. A covered employee or a member of his/her immediate and/or extended family having an equity or ownership interest in a publicly or non-publicly-traded entity or enterprise.
- v. Covered Employee accepting support for ECSU research under conditions that

require research results to be held confidential, unpublished, or inordinately delayed in publication. Research conducted by faculty or students under any form of sponsorship must maintain ECSU's open teaching and research philosophy and must adhere to a policy that prohibits secrecy in research. Such conditions on publication must be in compliance with *UNC Policy Manual*, 500.1 and 500.2, and ECSU Policy Manual, 900.1.1

**C. Category III. Activities or relationships that are generally not allowable or permitted unless an approved Conflict of Interest Management Plan is in place.**

The examples cited below involve situations that are not generally permissible, because they involve potential financial conflicts of interest or they present obvious opportunities or inducements to favor personal interests over institutional interests. Before proceeding with such an endeavor, the Covered Employee would have to demonstrate that, in fact, his or her objectivity would not be affected and ECSU interests otherwise would not be damaged and an approved Conflict of Interest Management Plan is in place.

- i. A Covered Employee participating in ECSU research involving a technology owned by or contractually obligated to (by license or an option to license, or otherwise) an enterprise or entity in which the individual or a member of his or her immediate and/or extended family has a consulting relationship, has an equity or ownership interest, or holds an executive position.
- ii. A Covered Employee participating in ECSU research which is funded by a grant or contract from an enterprise or entity in which the individual or a member of his or her immediate and/or extended family has an equity or ownership interest.
- iii. A Covered Employee assigning students, post-doctoral fellows or other trainees to ECSU research projects sponsored by an enterprise or entity in which the individual or a member of his or her immediate family has an equity or ownership interest.

**D. Category IV. Activities that are not allowable under any circumstances**

- i. A Covered Employee making referrals of ECSU business to an external enterprise in which the individual or a member of his or her immediate and/or extended family has a financial interest.
- ii. A Covered Employee associating his or her own name with ECSU in such a way as to profit financially by trading on the reputation or goodwill of ECSU.
- iii. A Covered Employee making unauthorized use of privileged information acquired in connection with one's ECSU responsibilities.
- iv. A Covered Employee signing agreements that assign Institution patents and other intellectual property rights to third parties without prior Institutional approval.
- v. Any activity otherwise prohibited by law or ECSU policy.

**4. COI**

Covered Employee will be required to disclose annually relationships and circumstances that may raise questions about conflicts of interest and conflicts of commitment relating to ECSU



employment responsibilities, including, but not limited to sponsored research activities. All potential Category I, II, III, and IV relationships or financial holdings must be reported regardless of the dollar amounts involved. Where there is some question whether an activity should be considered a Category I or II activity as described above, the EHRA employee should include the activity in the disclosure for consideration by his/her supervisor.

Revisions or updates of the yearly disclosures are required between yearly disclosures whenever there is a significant change in the EHRA employee's or his/her immediate and/or extended family's affairs that may lead to or may be perceived to lead to be a conflict with the EHRA employee's university activities, e.g., the faculty member's spouse begins to receive consultant fees from a company that currently contracts with ECSU for research services from the faculty member's laboratory.

All Covered Employees must receive COI training. The COI training program developed by the Office of Research Compliance will be made available to all Covered Employees through the UNC AIR (Activities, Interests, and Relationship) System in a fashion that encourages and facilitates training. Training must be completed every four years and immediately under these designated circumstances:

- i. ECSU Financial Conflict of Interest Policy changes in a manner that affects Covered Employees requirements;
- ii. A Covered Employee is new to ECSU; and
- iii. ECSU finds that a Covered Employee is not compliant with the COI Policy or management plan.

## **5. Institutional Conflict of Interest**

ECSU, from time to time, forms relationships with profit-making entities (including the holding of equity interests) for mutual benefit. However, such relationships may put the ECSU into actual or apparent conflict of interest situations when accepting grants or contracts from the profit making entities for research or other activities. A relationship with a profit making organization for the purposes of this institutional conflict of interest policy shall not include ordinary investments of the university's endowment that are managed by the ECSU Foundation or ordinary client-vender relationships where ECSU contracts for specific goods or services from a profit-making organization.

## **6. Enforcement of the Policies**

Covered Employees are under a clear obligation to adhere to the ECSU policies to disclose and to remove or appropriately manage conflicts of interest or commitment. Breaches of the policy/procedures will be viewed as serious ethical violations by the persons involved.

Possible breaches of the policy/procedure include, but are not limited to:

- A. Furnishing false, misleading or incomplete information on the disclosure forms;
- B. Failure to promptly update disclosure forms before the required annual update when a significant change in a person's financial or fiduciary status places the individual into an immediate potential conflict of interest or commitment situation;
- C. Failure to comply with the procedures described above (e.g., refusal to respond to

inquiries, responding with incomplete or knowingly inaccurate information, or otherwise);

- D. Failure to remedy conflicts; and
- E. Failure to comply with a prescribed monitoring plan.

**7. Consequences of Covered Employee Non-Compliance for Sponsored Research**

When a Covered Employee fails to comply with ECSU's Financial Conflict of Interest policy or the management plan, ECSU shall adhere to the procedures detailed in the OSP Procedure Manual.

ECSU shall submit FCOI reports annually, in accordance with the regulation. Depending on the nature of the Financial Conflict of Interest, ECSU may determine that additional interim measures as necessary with regard to the Covered Employee's participation in the funded research project between the date that the Financial Conflict of Interest is identified and the completion of ECSU's independent retrospective review, in accordance with 42 CFR 50.605(a)(3) and 42 CFR 50.605(b)(3).

**8. Related Policies and References:**

[UNC Policy Manual 300.2.2-Conflicts of Interest and Commitment](#)

[UNC Policy Manual 300.2.2\[G\]-Guidelines on Implementing the UNC Conflict of Interest and Commitment Policy](#)

ECSU's Office of Sponsored Programs Procedure Manual