Policy Q&A

**UTDPP1091: Conflicts of Interest, Conflicts of Commitment, and Outside Activities**

Below you will find some questions and answers that may help expand your understanding of Conflicts of Interest, Conflicts of Commitment and Outside Activities and how it applies to you. These are general questions and scenarios. If you have any questions you should contact the Office of Institutional Compliance at extension 2233 or compliance@utdallas.edu.

**Questions**

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Where is the policy located?
UTD’s policy can be found in the Handbook of Operating Procedures (HOP) at
http://policy.utdallas.edu/utdpp1091

To whom does the policy apply?
- The policy prohibiting conflicts of interest and conflicts of commitment applies to all employees.
- The approval and disclosure requirements apply in some way to all UTD faculty, administrative and professional staff (including classified staff), and certain FLSA non-exempt employees who are authorized to exercise discretion with regard to the award of contracts or other financial transactions.

Am I allowed to have outside employment?
The policy does not prohibit outside employment. However, you must request prior approval in most cases. It is up to the institution to determine whether or not such employment – when considered in combination with your job duties and any other outside activities – represents a potential conflict of interest or conflict of commitment.

When do I need to get prior approval for an outside activity?
- All full-time members of the faculty, all full-time administrative and professional staff (including classified staff), and certain FLSA non-exempt employees as defined in the University HOP are required to get prior approval before engaging in the following:
  o Any outside employment or other compensated activity
  o Service on outside boards, regardless of compensation, unless it is for a local religious congregation and/or is primarily personal in nature (visit the policy for examples of these exceptions)
  o Any other activity, regardless of compensation, that may create or reasonably appear to create a conflict of interest or conflict of commitment
- Part-time faculty and part-time administrative and professional staff (including classified staff) need to only request prior approval if the activity may create or reasonably appear to create a conflict of interest.
- Certain FLSA non-exempt employees are not required to request prior approval unless they are authorized to execute contracts on behalf of UTD or who because of their job duties at UTD have authority to exercise discretion with regard to the award of contracts or other financial transactions, but they are still prohibited from having conflicts of interest or conflicts of commitment.
- Annual review and re-approval is required for ongoing activities.
- For more information, see the training materials available here https://www.utdallas.edu/compliance/conflicts-of-interest/.
Do I always need prior approval for outside employment?

- In most cases, yes, BUT...
- There are a few exceptions:
  - Certain classified employees are not required to request prior approval unless they are authorized to execute contracts on behalf of UT or who because of their job duties at UT have authority to exercise discretion with regard to the award of contracts or other financial transactions, but they are still prohibited from having conflicts of interest or conflicts of commitment.
  - Part-time employees are not required to request prior approval unless the activity may reasonably appear to create a conflict of interest.
  - Outside employment during those months in which a member of the faculty, who is appointed on a 9-month basis (or anything less than 12 months), is not appointed can be considered pre-approved. It requires no further approval, unless the outside employment reasonably appears to create a conflict of interest, in which case prior approval is required. (Such activity may have to be disclosed, however.)
  - There are categories of activities that are considered pre-approved. The activity must clearly contribute to the mission of the institution and/or provide important elements of development related to your institutional responsibilities. Examples of pre-approved activities can be found in the policy. If you have questions about an outside activity you think may be considered pre-approved, email rob.hopkins@utdallas.edu (even if the activity is pre-approved, it still may need to be disclosed).
  - There may be activities that by their nature cannot be specifically approved before the work must begin, such as consulting on an emergency or other urgent need. You can request approval promptly retrospectively, by selecting that option in the online request form at http://outsideactivity.utsystem.edu.

How do I get prior approval?

- You must request prior approval by completing the request form available in the Outside Activity Online Portal at http://outsideactivity.utsystem.edu.
- There are tool tips as well as detailed instruction videos available to guide you through the process.

My request to take on outside employment was rejected. Do I have any options?

- An employee is allowed to appeal a decision. The process to appeal a decision is found in UTDPP1091 – Sec. 11 – Appeals-Individuals whose request for approval of outside activity is denied may request that the denying authority reconsider the decision and provide an explanation of the decision in writing. If the individual remains unsatisfied with the decision, he or she may access standard grievance procedures to the extent that they are otherwise applicable.
• Even if an employee received approval to engage in an activity, the approval may be rescinded at any time for cause. The appeals process is also available in this circumstance.
• Your request for approval of an outside activity may be rejected if it does not comply with applicable policies, regulations, and laws, or if it creates a conflict of commitment or conflict of interest that cannot be managed.
• You may also email rob.hopkins@utdallas.edu for more information.

How are disclosures under the policies different from prior approvals?
• An approval is for an activity that will occur – something you will do in the future.
• A disclosure is for an activity that has occurred - or is occurring. It is also more comprehensive, including certain activities and interests that do not require approval. Disclosure also covers immediate family members in many cases.

Who needs to make disclosures?
• All full-time members of the faculty, all full-time administrative and professional staff (including classified staff), and certain FLSA non-exempt employees who are authorized to execute contracts on behalf of UT or who because of their job duties at UT have authority to exercise discretion with regard to the award of contracts or other financial transactions are required to make disclosures. These full-time employees must also disclose for members of their immediate family if there may reasonably appear to be a conflict of interest (Example 3, below).
• Part-time members of the faculty and part-time administrative and professional staff (including classified staff) are required to make disclosures only if there may reasonably appear to be a conflict of interest. The policy does cover conflict of commitment for part-time employees. Part-time employees do not have to report for members of their immediate family.
• Certain FLSA non-exempt employees are not required to make disclosures unless they are authorized to execute contracts on behalf of UT or who because of their job duties at UT have authority to exercise discretion with regard to the award of contracts or other financial transactions, but they are still prohibited from having conflicts of interest or conflicts of commitment.

What is a conflict of commitment?
A state in which the time or effort that a UTD employee devotes to an outside activity directly or significantly interferes with the employee’s fulfillment of his/her institutional responsibilities or when the employee uses State property without authority in connection with the employee’s outside employment, board service, or other activity (See Sec. 8, RR 30104). Exceeding the amount of total time permitted by UT System or UTD policy for outside activities creates the appearance of a conflict of commitment.

Conflict of commitment is generally an issue of time.
Only an employee – not a member of the immediate family – can have a conflict of commitment. Part-time employees generally do not have conflicts of commitment.

**Examples**

Example 1. This is the most obvious and easily recognizable example of conflict of commitment. A full-time UT employee has a second job in the evenings. The employee is often late to the office, frequently lethargic and unproductive, and sometimes leaves early to get to his other job. The quality of his work and his dependability have declined. This employee has a conflict of commitment. His outside employment is interfering with his ability to fulfill his responsibilities to UT.

Example 2. It is not always one single activity but the sum total of a variety of activities that may result in a conflict of commitment. For instance, in addition to her teaching and research duties, a faculty member served as a reviewer for two journals, gave the keynote address at four conferences, and also gave lectures at three medical campuses. There is value in these outside activities, and the University encourages faculty to engage in them. However, in this instance, the chair of the department is concerned that the combination of all of these activities for one faculty member may be creating a conflict of commitment. They have put a conflict management plan in place to provide checkpoints to ensure that her teaching and research responsibilities are being met.

**What is a conflict of interest?**

A significant outside interest of a UTD employee or one of the employee’s immediate family members that could directly or significantly affect the employee’s performance of the employee’s institutional responsibilities. The proper discharge of an employee’s institutional responsibilities could be directly or significantly affected if the employment, service, activity, or interest: (1) might tend to influence the way the employee performs his/her institutional responsibilities, or the employee knows or should know the interest is or has been offered with the intent to influence the employee’s conduct or decisions; (2) could reasonably be expected to impair the employee’s judgment in performing his or her institutional responsibilities; or (3) might require or induce the employee to disclose confidential or proprietary information acquired through the performance of institutional responsibilities.

Conflict of interest can arise because of the employee’s own activities or financial interests or those of the employee’s immediate family members.

Conflict of interest is usually an issue of financial or other personal gain. In most cases, the activity or interest must be related to your UTD responsibilities in order to create a conflict of interest.

**Examples**

Example 3. As part of her responsibilities, a UTD employee has some influence in awarding the contract for facilities maintenance. Her son owns and operates a company that performs this type of service and has submitted a bid. This is a potential conflict of interest arising from her son’s substantial interest in a business entity that is related to her job responsibilities.
If her son were an employee of the company instead of owner, this could still be a potential or perceived conflict of interest. She should discuss with her supervisor and/or compliance officer whether or not she should disclose this under UTS 180. If her son’s company was not submitting a bid for this contract, this would not be a conflict of interest and would not need to be disclosed.

There are many examples of potential conflict of interest for those who are engaged in research. However, those activities and those conflicts are covered by a separate policy which is located at http://www.utdallas.edu/research/orc/conflict_of_interest/.

If I am required to make disclosures, what activities do I need to disclose?

Section 6 covers the disclosure requirements. In summary:

- Any outside employment or other compensated activity.
  - Report for immediate family members only if it may reasonably appear to create a conflict of interest.
  - Part-time employees only report if it may reasonably appear to create a conflict of interest. Part-time employees do not report for immediate family members.

- Outside board service.
  - Exceptions for service to a local religious congregation or to a board for which the service is primarily personal rather than professional in nature. See Section 29.6.4(c) for more details.
  - Report service on boards for immediate family members only if it may reasonably appear to create a conflict of interest.
  - Part-time employees only report if it may reasonably appear to create a conflict. Part-time employees do not report for immediate family members.

- Uncompensated activity only if it may reasonably appear to create a conflict of interest or conflict of commitment.

- Substantial interests in a business.
  - For all: only if the interest may reasonably appear to create a conflict of interest.
  - Part-time employees do not report for immediate family members.

- Gifts more than $250 given to you or your immediate family members.
  - For all: Only if it may reasonably appear to create a conflict of interest.

What kind of information do I need to tell about the activity or interest?

Nature and extent includes a description of the organization, the activity, the time commitment, and the anticipated length of time the commitment is expected to continue. Compensation is any form of benefit including but not limited to salary; retainer; or promised, deferred, or contingent interest. Compensation may be in kind. Reimbursed travel is considered compensation if it is in return for services. Example: if a company covers your registration fees and travel expenses in return for you
presenting a paper, then that is considered compensation. If it covers those expenses for no “work” then it may be considered a gift.

What does “immediate family” mean?
Immediate family members include:
- a spouse;
- 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/or
- a related or non-related, unmarried adult who resides in the same household as the employee and with whom the employee is financially interdependent as evidenced, for example, by the maintenance of a joint bank account, mortgage, or investments.

The policy says this data will be publicly available online. Is that true?
Yes, in some instances. There will be an online database by individual with the nature and extent of the activity, and the range of compensation if more than $5,000, for all managed conflicts of interest or conflicts of commitment, unless deemed confidential by the institution.

No information will be available online for members of an employee’s immediate family.

Do faculty with nine-month appointments have to disclose outside employment?
Yes. This is considered a full-time appointment and a continuing position. Any outside employment – even if performed over the summer break – must be disclosed. However, if it occurs during the time when an employee is not appointed, it does not require prior approval.

Does “substantial interest” include mutual funds?
No. Income from investment vehicles, such as mutual funds or retirement accounts, is not a substantial interest as long as the individual does not directly control the investment decisions made in those vehicles.

Can travel or conference registration fees be considered a gift?
Yes. If the reimbursed travel or registration fees – or travel or fees that are directly paid by a third party (not you and not UTD) – are not for services rendered (for example, if you attend but do not work or present at a conference), then they would be considered gifts. Gifts must be disclosed if they may reasonably appear to create a conflict of interest. If the travel is in return for services (say presenting or speaking), then it is considered compensation and may need to be reported as outside employment.

Please note: There could be issues in accepting such a gift over and above this policy. Please consult with the Office of Institutional Compliance.
What does “primarily personal” mean in regard to Service on Outside Boards?
This refers to service that is unrelated to your position at UTD or your UTD responsibilities. Examples include boards of the following nature – a municipality; local religious congregation; neighborhood association; public, private or parochial school; political organization; social advocacy organization; youth sports or recreation league; affinity group such as the local orchid society or model train collectors club; and other similar outside boards.

I was told I need a conflict management plan. What is that? Is it something bad in my personnel record?
- Whenever you are engaged in an outside activity or have an outside interest that may appear to create a conflict, you must have a management plan in place.
- Your management plans will be developed by you in conjunction with your supervisor, and it will be approved by the next senior official.
- Conflict management plans are put in place to provide checkpoints to ensure that your outside activity does not interfere with the discharge of your UT responsibilities.
- This is not a negative mark on your personnel record.

The approval for my activity has been rescinded. What does this mean?
- Approvals may be rescinded if information is received that indicates the activity is not consistent with the policy or any applicable law.
- You should be given notice in writing and have an opportunity to respond.
## Quick Reference Table: Overview of Disclosure Requirements

<table>
<thead>
<tr>
<th>Activity Type</th>
<th>FULL-TIME: Yourself</th>
<th>FULL-TIME: Immediate Family</th>
<th>PART-TIME: Yourself</th>
<th>PART-TIME: Immediate Family</th>
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<tr>
<td><strong>Outside Employment/Other Compensated Activity</strong></td>
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<tr>
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<td>Only COI/COC</td>
<td>Only COI</td>
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<td>Substantial Interest in a Business Entity</td>
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<td>Yes</td>
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</tr>
<tr>
<td>Most (a few exceptions)</td>
<td>Yes (a few exceptions)</td>
<td>Only COI/COC</td>
<td>Only COI</td>
<td>Only COI</td>
</tr>
<tr>
<td>Service on Outside Boards</td>
<td>Only COI/COC</td>
<td>Yes</td>
<td>Only COI</td>
<td>Only COI</td>
</tr>
<tr>
<td>Other Outside Activity</td>
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<td>Only COI</td>
<td>Only COI</td>
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<tr>
<td>Gifts Over $250</td>
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<td>No</td>
<td>Yes</td>
<td>Only COI</td>
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