

SPECIAL REPORT OF THE RESEARCH COUNCIL

Concerning

**GUIDELINES FOR FACULTY AND STAFF ON
CONDUCT AND DISCLOSURE OF NON-UNIVERSITY ACTIVITIES**

presented at the

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**Committee Membership
(1991-1992)**

**W. Richard Adrion
Paul Shuldiner
Juan Zamora
Doris Shallcross
John Finn
Robert Bernatzky
Katherine Fite
Walter Kroll
Dorothy Gilbert
Hossein Kazemi
Sylvia Forman
Stephen Gehlbach
Mary K. Bennett
Ronald Story
Arthur Kinney
Lee D. Beatty
Keith Carver
Bert Reekmans
Conrad Wogrin**

**Guidelines for Faculty and Staff
on
Conduct and Disclosure of Non-University Activities**

Introduction

The University and the Commonwealth encourage faculty members to participate in external activities which apply the fruits of their knowledge to the needs of people and business in society, and of their profession. These activities often serve the public at large, and the Commonwealth in particular, through the discovery and dissemination of knowledge, the promotion of increased productivity and quality of life, and the attraction of new industry to enhance the general economy of the State and well-being of its citizens.

Both contract and traditional practice uphold the right of faculty and academic staff members to engage in outside professional or personal activities to the extent that such activities do not create conflicts of commitment or interest or the appearance of conflict. The possibility of conflict of interest, while it may occur rarely, is of concern to Federal and State government, as well as to the University community itself. For this reason, the University is obliged to maintain a process for identifying and rectifying cases of possible conflict of interest. The Report of Non-University Activities, which faculty and staff will henceforth be required to complete annually, is the principal mechanism for the process on this campus.

This self-reporting procedure is not intended to discourage activities outside the University. **The chief purpose of the reporting requirement, and of the provisions for the administrative review and approval, is to protect academic staff members and the University from accusations of conflict where appropriate and disclosed activities are taking place.** The Report provides a mechanism for identifying possible conflicts of interest in a timely way, so that it can be determined that no significant or potential conflict exists, or that apparent conflicts can be addressed before they become serious problems for the staff members and the University.

Applicable University and State Policies

These guidelines do not replace existing State law or University policies on external activities, nor do they prescribe or proscribe any specific action. The guidelines provide a general discussion of the issues and include examples of external activities which may engender conflicts in academic communities.

All employees on the Amherst campus are subject to the Massachusetts Conflict of Interest Law (MGL 268A). In general MGL 268A specifies that public employees may not use their positions to obtain unwarranted privileges or personal gain, and requires employees to avoid all conduct which gives the impression of conflict of interest. All provisions of 268A apply to University employees, but MGL 268A does not specify all situations in which there is potential for conflict of interest on a university campus. Full information about MGL 268A can be obtained from the Office of the Associate University Council (5-2204). Employees can obtain confidential advisory opinions on specific activities from the State Ethics Commission (617-727-0060).

A number of University policies also include provisions which relate to conflict of interest [e.g. Policy Guidelines for the Development and Administration of Grants, Contracts, and Restricted Gifts for Sponsored Programs in Instruction, Research, Public Service (T81-051); Patent Policy (T85-091A)]. The following are particularly relevant:

University policy on outside compensation (T68-060A) obliges faculty to render to the University the most effective service of which they are capable, specifies that no outside service should interfere with this obligation, and requires disclosure of external activities.

The University academic personnel policy (T76-081) specifies that satisfactory fulfillment of faculty responsibilities (teaching, research, governance, and professional service) is a condition of employment.

Copies of these policies and advice concerning them can be obtained from the Office of Research Affairs (545-3428).

General Principles and Definitions

In deciding to undertake external activities, faculty and academic staff members are advised to consider the potential for conflict of interest or commitment. They must also consider the potential for external activities to influence their University actions. They may not use their University position and influence for gain to themselves or to their families and associates, or engage in research, teaching, or research activities that are intended to further personal interests. Students' academic duties and rights should not be infringed or prejudiced by the outside involvements of faculty.

The term conflict of interest is used informally to describe a variety of situations in which employee responsibilities and individual rights to pursue personal and professional interests come into conflict and to describe situations in which employee and institutional interests appear to conflict. More formally, universities recognize two separate kinds of conflict—commitment and interest.

Conflict of commitment occurs when the time allotted to individuals' external activities, often valuable in themselves, interferes with credible performance of their paramount obligations to students, colleagues and the University.

Conflict of interest occurs when individuals have the opportunity to influence the University's business, research or other decisions in ways that could lead to personal gain or give improper advantage to their immediate family or associates. [This general statement does not purport to encompass the scope of State law on Conflict of Interest, (MGL 268A)].

Examples of Conflict of Interest

There are at least four categories of conflict of interest problems that can arise: 1) Non-university activities might affect detrimentally educational programs, other staff members or students; 2) University research or educational program might be affected inappropriately by outside interests and involvements; 3) The dissemination of knowledge might be unduly constrained; and 4) Public resources might be used for private gain.

The following examples illustrate conflicts of interest in a university context:

- Organizing or otherwise participating in University-based research or service activity that selectively benefits companies or other organizations in which the participating university employee has a financial interest.
- Orienting research to serve the research needs of companies or other organizations in which the researcher has a financial interest.
- Unduly delaying the publication of scholarly research findings in order to benefit private interests.
- Using university equipment, personnel, supplies, or facilities to support research that benefits a private individual, organization or commercial entity, or for consulting or other arrangements that result in personal gain.
- Directing students into research activities that are designed primarily to serve personal interests rather than to further the students' scholarly achievement.
- Accepting a gratuity, gift or special favor from private organizations with which the university does business.
- Establishing work relationships in which an individual is under the supervision of an university employee in both university and non-university settings.
- Diverting to external entities opportunities for research support which otherwise the university would expect to obtain.
- Influencing students in any way that results in the personal gain of a faculty or staff member.

Disclosure

On the Report of Non-University Activities faculty and staff members are required to disclose non-university income-producing activities and provide an estimate of the amount of time spent on these activities.

Faculty and staff must also disclose certain relationships with sponsors of University research that may pose conflicts of interest, such as consulting relationships or managerial roles, whether their own or those of their immediate family.

It should be carefully noted that

- a) No financial information is requested on the disclosure report.** An estimate of time allotted to the external activity is requested.
- b) The disclosure requirement in no way implies that the activities are undesirable or discouraged by the University,** (many of them are in fact encouraged).

Administrative Review

The heads of units have the responsibility of obtaining completed reporting forms dealing with outgoing activities from their staff each year and at the time that each new activity is proposed, reviewing the completed forms and forwarding any reports requiring additional review. They also have the responsibility of pursuing to satisfactory resolution in a timely fashion any questions of possible conflicts of interest that may be raised in any report.

For More Information

The Office of Research Affairs can advise you on when and how you should complete the Report of Non-University Activities. They can also provide you with copies of all relevant federal, state, and University policies. They are located in Goodell Building and their telephone number is 545-3428.

Moved: **That the Faculty Senate approve the Guidelines for Faculty and Staff on**
10-92 **Conduct and Disclosure of Non-University Activities, as presented in**
 Sen. Doc. No. 92-017.

ADMINISTRATIVE REVIEW PROCEDURES

The heads of units have the responsibility of obtaining completed reporting forms from their staffs each year, reviewing the completed forms and forwarding any reports requiring additional review. They also have the responsibility of pursuing to satisfactory resolution, in a timely fashion, any questions of possible conflicts of interest that may be raised in any report. When necessary, unit heads may consult with their superiors.

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Part I. Prospective and Retrospective Activities

Please check your findings on the appropriate line in 1. or 2. Before indicating a finding of the appearance of a conflict of interest, the staff member should be informed of the reasons and given the opportunity to respond and to modify the activity to remove possible conflict. Identify any activities that are found to involve conflicts of interests and indicate the reasons for the finding.

Part II. Conflict of Interest Review

1. If you believe that a conflict of interest exists (and intend to check 1b. or 1c.) the activities in question should be discussed with the staff member. After that discussion, if you still believe that a conflict exists, check 1b. or 1c., attach a statement describing the conflict and indicating why you believe that it is or is not significant. In either case, forward the report and your statement to the next higher level for review.

2. Please mark whether you find there is some possible detrimental effect on colleagues or students. attaching a statement if you find that there may be some detrimental effect.

Unit Head Signature

Sign and date.

Dean (or comparable officer) Signature

Forms on which the unit head checks **Part II. 1b. or 1c. or Part II. 2. appears to be** must be forwarded by the unit officer to the next higher administrative level and then to the Office of the Vice Chancellor for Research.

Additional Approvals

In cases involving academic staff or students in other units, additional unit head approvals will be required. In such cases, reports and attachments should be sent to them for review before filing and forwarding.

ADMINISTRATIVE REVIEW AND APPROVAL

Name _____ Department/Unit _____

Part I. Prospective and Retrospective Activities

1. Prospective Activities (1991-1992)

- a. _____ All declared prospective activities are believed to be without potential for conflict or interest.
- b. _____ Some or all declared prospective activities are found to have some potential for conflict of interest.

ATTACH EXPLANATION IF YOU CHECK b.

2. Retrospective Activities (1990-1991)

- a. _____ All retrospective activities were found in advance to be without potential for conflict of interest.
- b. _____ Some or all retrospective activities were found to have some potential for conflict of interest.

ATTACH EXPLANATION IF YOU CHECK b.

Part II. Conflict of Interest Review

1. To the best of my knowledge and in my judgment

- a. _____ No conflict of interest exists.
- b. _____ A conflict of interest may exist but does not appear to be significant. ATTACH EXPLANATION. ⁴
- c. _____ A conflict of interest may exist that warrants further review. ATTACH EXPLANATION. ⁴

2. If applicable:

As described by the academic staff member, the involvement of students, junior faculty members and/or academic staff in his/her unit or under his/her supervision in his/her non-university professional or income-producing activities _____ **appears to be/** _____ **appears not to be** detrimental to those individuals.

If you check "appears to be," ATTACH EXPLANATION. ⁴

Chair or Unit Head Signature _____ Date _____

Dean Signature _____ Date _____
(If approval needed⁴)

Additional Reviews⁵ _____ Date _____
(signatures)

Unit _____

_____ Date _____

Unit _____

⁴ Dean's approval is needed, if unit head checks.

⁵ Other unit heads whose students, faculty and/or staff are involved in the activities in question.

INSTRUCTIONS FOR COMPLETING FORM

Definitions:

Day of activity: For the purposes of this report, a "day" is a conventional "working day" or equivalent—approximately eight hours. For example, two hours of activity performed on four separate occasions accumulate to one day of activity.

Part I. Non-University Income Producing Activities

If you have no income activities to report, check the appropriate box and continue to Part II.

If you have activities to report, fill in one line for each activity. If you have more than four activities to report, use an additional sheet and attach that sheet to the report.

Listed below are examples of types of non-university income activities to report.¹ In general, activities from which you derive income that you are obliged to report to the IRS should be reported here (with exceptions as noted).²

artistic performances	fellowships
board of directors service	positions at other institutions
consulting and advising	real estate holdings
contractual arrangements with publishers	research contracts
expert witness testimony	workshops, seminars and training programs

Types of activities that you need not report in Part I. are listed below, even though some of them may be required by the IRS:

prizes and awards
royalties from past writing
uncompensated and volunteer activities
Interest and dividends from savings and passive
Investments

However, all of the above activities must be considered when assessing possible conflicts in answering Part II.

Part II. Possible Conflicts of Interest

1. Check as many as applicable. Attach a description of your activity. If you believe that a conflict of interest may be possible.
2. Note that you must take into account both compensated and uncompensated activities in making this assessment. If you believe that you might have some conflict of interest, attach a statement describing the potential for conflict.
3. A positive response is required if you have any outside activities that involve University staff or students. Attach a statement describing these activities.

Part III. Affirmation

Signing the form affirms the accuracy and completeness of your statements and your familiarity with the *Guidelines*.

Completed and signed forms are to be forwarded to your department chair or comparable supervisor/administrator to whom you ordinarily report

¹ Activities processed through University are not to be included. ·

² Information on income is not requested.

**University of Massachusetts at Amherst
Academic Staff Report of Non-University Activities
for 1991 – 1992**

Name _____ Department/Unit _____
Title and Rank _____ College _____

CHECK ONE _____ First Report for 1991 – 1992
_____ Update of 1991-1992 Report dated _____

Your University Appointed Period¹: (Check One)

- _____ Academic year
- _____ 12 months
- _____ Semester
- _____ Summer
- _____ Other (Explain) _____

Nature of Appointment

- _____ Full-time appointment
- _____ Part-time appointment—Report % of full-time _____%

Part I. Non-University Income-Producing Activities

If you have no income-producing activities to report, check here _____ and proceed to Part II. below.

List below each non-University income producing activity performed/proposed during 1990-1992 and 1991-1992.
(Do not report amounts received.)

Nature of your activities	Company/agency/organization (if applicable)	1990-1991 Retrospective Days spent during 1990 - 1991 Reporting Period	1991-1992 Prospective Estimated days to be spent during 1991 - 1992
Attach Additional Sheets If Necessary			

Part II. Possible Conflicts of Interest

1. I have a consulting relationship, managerial role or significant² financial interest in (check all applicable):

- a. _____ a company doing business with the University
 - b. _____ a company in my field of professional activity
 - c. _____ a sponsor of my research, scholarship or creative activity
 - d. _____ none of the above
- (if you check any of a, b, or c, describe in attached statement)

2. I _____ do/ _____ do not have any other financial or fiduciary interests, relationships, commitments, or activities (including uncompensated activities) that present potential or apparent conflicts of interest or commitment.

NOTE: Report both compensated and uncompensated activities.

If you check "do," describe in an attached statement.

3. I _____ do/ _____ do not have non-University professional or income-producing activities involving other University of Massachusetts staff or students.

If you check "do," describe in an attached statement.

Part III. Affirmation

IN SUBMITTING THIS FORM, I AFFIRM THAT I HAVE READ THE UNIVERSITY GUIDELINES AND PROCEDURES ON CONFLICT OF INTEREST POLICIES³

Staff Member signature: _____ Date _____

¹ For these purposes, a University appointment period includes days, nights, weekends, and holidays during employment term.

² An ownership as defined in MGL 268A interest of 1% or more or of \$5,000 or more.

³ Copies of Guidelines and Procedures on Conflicts of Interest may be obtained from your department office or the Office of the Vice Chancellor of Research.