

FLORIDA A&M UNIVERSITY BOARD OF TRUSTEES



NOTICE OF PROPOSED AMENDED REGULATION

DATE: June 2, 2022

REGULATION CHAPTER NO.: Chapter 10

REGULATION CHAPTER TITLE: Personnel

REGULATION TITLE AND NUMBER: Conflicts of Interest and Commitment (10.122)

SUMMARY OF REGULATION: This Regulation substantially rewords and reorganizes the previous version to expand the current Regulation to comply with statutory mandates. This amendment highlights current policies and guidance including, but not limited to: University and employee compliance obligations; prohibited activities; updated definitions; reporting requirements; disclosure reviews; mitigation actions; and enforcement guidance.

AUTHORITY FOR REGULATION: Section 7(c), Art. IX, Fla. Const.; Uniform Guidance 2 CFR §200.112 Conflict of Interest and §200.113 Mandatory Disclosures; Chapter 112, Part III, Florida Statutes; Section 1012.977, Florida Statutes; Board of Governors Regulation 1.001.

UNIVERSITY OFFICIAL INITIATING THIS REGULATION: Rica Calhoun, Esq., CCEP, Chief Compliance and Ethics Officer.

PROCEDURE FOR COMMENTS: Written comments concerning this proposed regulation shall be submitted within 14 days of the date of this notice to the person identified below. The comments must specifically identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS: Rica Calhoun, Chief Compliance and Ethics Officer, 1700 Lee Hall Drive, Suite 105 FHAC, Tallahassee, Florida 32307, telephone: 850-412-7520.

FULL TEXT OF THE PROPOSED REGULATION: The full text of the revised regulation follows:

Regulations of Florida A&M University



10.122-10.122— Conflicts of Interest and Commitment

1) Policy Statement and Purpose

Florida A&M University has an obligation to monitor and address conflicts of interest that have an actual or perceived adverse impact on University interests or operations. A conflict of interest occurs when an individual has a personal or outside interest that conflicts with the best interests of the University, or when an individual's personal interests conflict or interfere with a University interest. A personal interest could be a financial interest in a vendor or in a transaction, a personal relationship with someone or any interest or relationship that could inappropriately affect an individual's judgment or decision-making in one's role at the University. Per the University's obligation, individuals must annually report outside employment/activities which involve the knowledge, skills, and abilities that they provide to the University.

2) Scope

This Policy applies to University employees (Faculty, A&P, USPS, and OPS). Members of the Board of Trustees will comply with standards outlined in the Board of Trustees' Operating Procedure.

3) Definitions

- a) **Outside Activities:** Any employment or activities entered into in addition to an individual's employment at the University, that utilize the knowledge, skills, abilities or expertise the individual uses to carry out their University duties. Such employment or activities include private practice, private consulting, teaching, research, business (including managerial interests or positions), or other activities. This definition includes compensated or uncompensated activities which are not part of an individual's assigned duties and for which the University provides no compensation. Outside activities generally do not include participation in religious, social, fraternal, recreational or personal educational activities.
- b) **Conflict of Interest:** Occurs when an individual has a financial, political, time, or social interest that could in some way impair their fairness and impartiality to the University.
- c) **Conflict of Commitment:** Occurs when the devotion of one's time to outside activities adversely affects their capacity to meet their primary University responsibilities.
- d) **University Personnel:** Florida A&M University faculty, staff, students, and affiliates engaged in domestic and foreign research/academic activities, per Board of Trustees (BOT) Policy 2005-14.
- e) **Immediate Family:** Refers to an individual's spouse and children.

4) Compliance with Laws and University Rules and Policies

Individuals covered under this Policy must observe, in all official acts, the highest standards of ethics consistent with the Code of Ethics of the State of Florida, Chapter 112, Part III, Florida Statutes (F.S.), the advisory opinions rendered with respect thereto, and the rules of the University. Faculty and staff of the University owe their primary professional allegiance to the University and its mission to engage in education, scholarship and research. Members of the Board of Trustees must maintain their fiduciary relationship to the University. Outside employment, activities, or financial interests which interfere with one's obligation to the University are prohibited. Individuals should avoid actual or apparent conflicts of interest between their University obligations and their outside employment, activities, or financial interests. If an outside interest is substantial enough to impact one's professional judgment or in any way interferes with their duty to act in the best interest of the University, there is a conflict. If the potential conflict cannot be mitigated, engaging in the outside activity is prohibited.

5) Prohibited Activities

Examples of related activities prohibited per Section 112.313, F.S., as well as University Regulations 1.019 and 6.002 include:

a. Bribery

- i. Individuals covered under this Policy shall not solicit or accept anything of value that is based on an understanding that their official action or judgment would be influenced thereby.

Covered individuals, their spouse, or their children shall not accept any compensation, payment or anything of value, when the individual, their spouse, or their child, know or with the exercise of reasonable care, should know that it is given to influence their vote or other official action.

b. Procurement Conflicts

- i. When acting in an official capacity, covered individuals are prohibited from directly or indirectly purchasing, renting, or leasing any realty, goods, or services for the University from a business entity in which the individual, their spouse, or their children serve as an officer, partner, director, or proprietor, or own more than a material interest.
- ii. When acting in one's private capacity, covered individuals are also prohibited from renting, leasing, or selling any realty, goods, or services to the University.

c. Misuse of Public Position

- i. Individuals covered under this Policy may not use or attempt to use their official position or any property or resource that is within their trust to obtain a special privilege, benefit, or exemption for themselves or others.

d. Continuing or Frequently Recurring Conflicts

- i. Individuals covered under this Policy shall not have an employment or contractual relationship or engage in a business or personal activity that will create a continuing or frequently recurring conflict between their private interest and the performance of their official duties.

e. Use of University Resources

- i. Covered individuals shall not use the facilities, equipment, or services of the University in conjunction with outside activities without appropriate prior approval.

6) Reporting

- a. Individuals covered under this Policy must annually disclose outside activities by completing the Annual Disclosure Form for Conflicts of Interest, Commitment, and Significant Financial Interest by July 1.
- b. Individuals must submit an amended disclosure within 14 days of any new or anticipated activity, interest, or commitment.

7) Disclosure Review

- a. An individual's immediate supervisor will perform the initial review to determine whether the proposed outside activity(ies) constitutes a conflict of interest, commitment, or other interference with the employee's duties. The Office of Human Resources provides a secondary review. The Division of Research will provide a secondary review of disclosures subject to BOT 2005-14. Mitigation plans are subject to additional University review and approvals, as appropriate.
- b. If it is determined that the proposed outside activity appears to constitute a conflict of interest, commitment, or interference, the individual will be notified that they may not engage in the proposed activity while being employed by the University.
- c. Financial and Other Conflicts of Interest and Commitment Governing Research**
- i. Pursuant to BOT 2005-14, University Personnel responsible for the design, conduct, or reporting of a sponsored project implemented by funds awarded to the University must also annually disclose significant financial interests for review through the Annual Disclosure Form for Conflicts of Interest, Commitment, and Significant Financial Interest.

8) Mitigation

If reviewers identify a potential conflict of interest or commitment, the University shall undertake such actions as it deems necessary to manage the conflict of interest or prohibit the activity, as appropriate. Examples of mitigation efforts include:

- a. Reimbursement: Individuals covered under this Policy complete the application to use University equipment, facilities and services in conjunction with outside activities. Approval of such a request will warrant that reimbursement be made for any additional costs to the University incurred.
- b. Donate Proceeds: An individual receiving royalties for authoring a textbook used by University students is asked to donate the proceeds to a University scholarship fund or another non-profit organization.
- c. Take Reasonable Precautions: Individuals engaging in an outside activity are required to take reasonable precautions to ensure that the outside employer or other recipient of services understands that the individual is engaging in such outside activity as a private citizen and not as an employee, agent, or spokesperson of the University.

9) Enforcement

Failure to report outside activities and relevant interests, engaging in the activities or holding the interests without the University's approval, and/or failing to follow any conditions imposed pursuant to the University's approval of such activities are grounds for disciplinary action, subject to any collective bargaining agreements, up to and including termination, disallowance or limiting outside activities, changes in assignment, limitations on research activities, and fines. Moreover, a violation of the Florida Code of Ethics or other applicable laws may be grounds for various penalties imposed under law. An employee engaged in the design, conduct, or reporting of research who has failed to disclose any outside activity or financial interest and receive a determination that the outside activity or financial interest does not affect the integrity of the University, shall be suspended without pay pending the outcome of an investigation which shall not exceed 60 days (or as otherwise required by law), and which may result in the termination of the employee (see BOT 2005-14).

Specific Authority: 1001.74(4) FS. and 1001.75, FS; 112.313 and 112-3185, FS., University Regulation 1.019 and 6.002, BOT Policy 2005-14. History–New 12-1-05 (formerly Rules 6C3-10.134 and 6C3-10.137), Amended 7-xx-22.

Outside Employment/Activities; Financial Interests and Other Conflicts.

Definitions:

~~“Outside employment/activity,” as used herein, means any employment entered into in addition to employment at the University. Such employment/activity includes private~~

~~practice, private consulting, teaching, research, business (including managerial interests— or positions), or other activity, compensated or uncompensated, which is not part of the— employee’s assigned duties and for which the University provides no compensation.~~

~~“Conflict of interest” mean:~~

~~Any conflict between the private interests of the employee and the public interests of the University, including conflicts as specified in Florida laws; or~~

~~Any outside activity or financial interest which interferes with the full and faithful performance of the employee’s professional and institutional responsibilities or obligations. The responsibility of the University employee is the full and competent performance of all duties pertinent to his/her employment with the University. Outside employment/activities or financial interests which interferes with the employee’s obligations to the University is prohibited. Employees of the University should avoid actual or apparent conflict of interest between their University obligations and their outside employment/activities or financial interests.~~

~~Any employee who proposes to engage in any outside employment must report in writing to the President or President’s designee via the employee’s supervisor as soon as practicable in advance of such employment, by completing the Florida A & M University report of Outside Employment form (FAM UPO 402 EFF. 7/91, as now or hereafter amended); which is incorporated herein by reference. The President or President’s designee shall determine whether the proposed outside employment appears to constitute a conflict of interest or other interference with the employee’s duties. If it is determined that the proposed outside employment appears to constitute such a conflict of interest or interference, the President or President’s designee shall notify the employee that he/she may not engage in the~~

~~proposed activity while employed as an employee of the University.~~

~~No employee shall claim to be an official University representative in connection with any outside employment.~~

~~All University employees are bound to observe, in all official acts, the highest standards of ethics consistent with the code of ethics of the State of Florida, Chapter 112, Part III, Florida Statutes, the advisory opinions rendered with respect thereto, and the rules of the University.~~

~~No employee shall solicit or accept anything of value that is based on an understanding that the official action or judgment of the employee would be influenced thereby.~~

~~No employee shall have an employment or contractual relationship or engage in a business or personal activity that will create a continuing or frequently recurring conflict between that employee’s private interest and the performance of the employee’s official duties. —~~

~~An employee engaging in an outside employment/activity must take reasonable precautions to ensure that the outside employer or other recipient of services understands that the employee is engaging in such outside activity as a private citizen and not as an employee, agent or spokesperson of the University,~~

~~Any employee who requests to use University facilities must complete the application to use University equipment, facilities and services in conjunction with outside activity/employment (FAM UPO 402, EFF. 7/91, as now or hereafter amended). Approval of such a request will warrant that reimbursement be made for any additional costs to the University occasioned thereby.~~

~~An employee, who engages in outside employment as described herein, shall be responsible for adhering to the requirements of Florida conflict of interest law, Section _____~~

112.313, F.S.

~~An employee serving on the board of directors of a for-profit corporation shall disclose in writing to the University President, or the President's designee, any compensation received from such for-profit corporation for the value of his or her board service.~~

~~Specific Authority: 1001.74(4) FS. and 1001.75, FS; 112.313 and 112-3185, FS. History New 12-1-05 (formerly Rules 6C3-10.134 and 6C3-10.137).~~