

## **Outside Employment of Faculty and Non-Classified Staff Members for Compensation: Concurrent Employment**

**January 19, 2016**

### **Background information**

The following discussion and draft guidelines are based upon review of three policies and two procedures.

1. University of Arkansas Board of Trustees Policy 450.1
2. FGP policy regarding “moonlighting”
3. UAMS Academic Affairs Policy 2.3.3 Tenure Status and Part-time Appointments for Tenured Faculty Members
4. College of Medicine procedures regarding outside employment for full-time faculty and non-classified senior administrative staff members
5. College of Medicine procedures regarding outside employment for part-time faculty and non-classified senior administrative staff members

A group was assembled to review current policies and procedures, and to make recommendations to the Dean and to the College of Medicine about the moonlighting and outside employment policies. The group included Dr. Richard Turnage (chair) and members Ms. Robin Dreisigacker, Dr. Brooks Gentry, Mr. Mark Hagemeyer, Dr. Jennifer Hunt, Dr. Tony Seupaul, and Dr. Jan Shorey.

The current policies and procedures were reviewed. An FGP policy currently prohibits outside employment (referred to as “moonlighting”) for full-time employees. Interpretation to date has been that part-time clinical employees are exempt from this policy for the portion of their time spent outside of UAMS employment, yet disclosure of any outside employment must be made by both full-time and part-time employees. In addition, UA Board of Trustees Policy 450.1 has been implemented variably across the College of Medicine Departments, with Department Chairs approving some kinds of outside employment for full-time faculty (e.g., including and not limited to expert witness work, some kinds of consulting, and service of various kinds to other academic institutions).

Procedurally, full-time faculty members must complete a “form” requesting permission from their respective Department Chair for any kind of outside employment. Approval must also be sought from the Dean. In 2014, the UAMS Provost’s Office, with the help of UAMS Information Technology, created the UAMS Outside Employment Database that facilitates these procedures and the reporting of outside employment to the UA Systems Office annually. The TRACKS-COI (Conflict of Interest) database facilitates monitoring for conflicts of interest and conflicts of commitment by the appropriate college and university administrators.

During discussion, it was recognized that, in some cases, outside employment may be beneficial to a UAMS employee and/or to UAMS as an entity. Myriad potential reasons for institutional benefit were reviewed, including but not limited to recruitment and retention advantage, increased UAMS reputation

through good relations and good service, the potential for increased clinical referrals to UAMS, and the dissemination of quality practices throughout the state. It was also recognized that the University of Arkansas policy 450.1 does not prohibit and even encourages outside employment. At the same time, the group was cautious and even leery of potential pitfalls associated with outside employment. These include but are not limited to the potential for conflict of interest, competition for the employee's time and energy resources (conflict of commitment), competition for the organization's business, and potentially diminished faculty attention to scholarly work.

The group supports abolishing the FGP policy that prohibits "moonlighting" and establishing COM guidelines for the careful implementation of UA Board Policy 450.1. The purpose of the new set of guidelines is to help each Department Chair, and as appropriate, the respective Service Line Director, approve limited outside employment for faculty members and non-classified senior staff members who request such employment that is of benefit to the individual and the institution, and monitor that outside employment to assure that the intention of UA Board Policy 450.1 is respected. The guidelines are presented with the expectation that individual departments will address departmentally specific issues and will provide further clarifying guidance for employees. It is expected that ultimate accountability for implementation and outcomes will be held jointly by the Department Chair and individual faculty member involved in each such agreement.

## Guidelines Regarding Outside Employment of UAMS COM Faculty and Non-classified Staff Members

These Guidelines are meant to clarify the implementation of University of Arkansas Board of Trustees Policy 450.1 within the College of Medicine. For purposes of documentation and approval, outside employment activities are defined as follows:

- An activity that is related to the employee's professional training, position, or employment  
Examples would include, but are not limited to the provision of any type of clinical care; consulting; service as an expert witness; paid positions for professional societies; speaker's bureaus; ownership or equity in an outside entity
- Outside activity need not be compensated to qualify as outside employment
- Outside employment will usually not include hobbies, avocations, and volunteer work unrelated to the employee's professional training, position or employment
- For anything not explicitly described above, the employee should review the opportunity with his/her Chair.

The process by which a faculty member or non-classified senior staff member may seek approval for outside employment is described below. This process applies to part-time and full-time UAMS College of Medicine employees.

- The employee and Department Chair (or Free-standing Division Chief) must utilize the Outside Employment system for pre-approval for any outside employment by the Department Head. The employee must also submit the outside activity for separate TRACKS Conflict of Interest review and approval.
- Approvals are granted for a period of no more than one year, and may be renewed after an annual review by the department chair.
- In addition to the pre-approval, the employee must regularly report status updates to the Department Chair (or Free-standing Division Chief) about the outside employment. These updates may include accounting of the actual time spent engaged in outside employment, the revenue generated, or other agreed upon metrics.
  - The timing and format of this reporting is at the discretion of the Department Chair (or Free-standing Division Chief), but it is expected to be on-going rather than only annual.
  - A summary should be prepared by the faculty member and reviewed by the Chair at the time of the annual Faculty Development Meeting and evaluation.
- The department head will review and approve outside activity reports in the context of performance on other metrics, such as COM clinical productivity analyses, satisfactory teaching/mentoring, research and scholarly productivity, leadership and administrative service, and citizenship.
- The dean submits a report of the concurrent employment in the college to the chancellor by September 30 of each year.

Specific application of this policy, including approval and monitoring, is at the discretion of the Department Chair and is specific to each Department. However, in submitting, reviewing and approving outside activities, both the employee and the approving Chair are assuring that the following expectations are met, and both the employee and approving Chair are agreeing to ongoing monitoring of outside activities to ensure that these expectations continue to be met over time. Chairs also assure that the appropriate Service Line Director has approved the outside activity.

- The outside activity must not interfere with, conflict with, supersede, or compete with the employee's University duties or conflict with his/her University assignments
  - The outside activity must not interfere with the time commitment of the employee's University duties.
  - The outside activity must not detract from the employee's University mission related duties.
  - The employee must be exceeding expectations in his/her duties within the department in all mission areas, including, but not limited to citizenship, academic performance, and productivity.
  - University branding, facilities, or property may not be utilized within the outside employment
    - The employee may not act as an agent or representative of the University in their outside activity
    - UAMS malpractice and benefits may not cover non-UAMS clinical activities. It is the employee's responsibility to ensure appropriate coverage for outside activities.
  - The outside activity must not represent direct competition for University business.
  - The outside activity must not violate any other University or College policies, or Federal or State laws.
  - The outside activity must not violate University of Arkansas Board of Trustee Policy 210.1 which pertains to patents and copyrights. A pertinent part of this policy states: "Employees engaged in external consulting work or business are responsible for ensuring that agreements emanating from such work are not in conflict with this policy or with contractual commitments of the University. Such employees should provide affirmative notice to the other parties to such agreements, informing them of the obligations of the employees to the University and the possible applicability of this policy to such agreements."
- The outside activity must be advantageous to both the employee and the University
  - The outside employment must be contributing to the professional advancement of the employee and the Department, and should correlate positively with the employee's University work.

- Decisions of the department chair regarding outside employment by a faculty member may be appealed to the Dean of the College of Medicine. This appeal must occur within 10 working days upon receiving the chair's decision and must be in writing.

### **Checklist for Chair approval**

#### *Chair to click through*

- This outside activity will not interfere with, conflict with, supersede, or compete with this employee's UAMS duties or assignments
- This employee is currently exceeding expectations in his / her performance of all of their UAMS duties, including but not limited to citizenship, academic performance, and productivity
- This employee understands that he/she cannot use University branding, facilities or property for this outside activity
- This outside activity does not represent direct competition with UAMS business
- I believe that this outside activity is advantageous to both the employee and to UAMS
- The employee and I have agreed upon a mechanism for ongoing monitoring of this outside activity and that this activity is subject to annual approval
- The employee and I have agreed that this outside activity does not violate the University of Arkansas Board of Trustee Policy 210.1 which applies to intellectual property rights, including patents and copyrights.

#### *Employee to click through*

- This outside activity will not interfere with, conflict with, supersede, or compete with my UAMS duties or assignments
- I am currently exceeding expectations in my performance of all of my UAMS duties, including but not limited to citizenship, academic performance, and productivity
- I understand that I cannot use University branding, facilities or property for this outside activity
- This outside activity does not represent direct competition with UAMS business
- I believe that this outside activity is advantageous to both me and to UAMS
- My Chair and I have agreed upon a mechanism for ongoing monitoring of this outside activity and that this activity is subject to annual approval

I understand that appeals of the department chair's decision regarding my request for outside employment to the Dean of the College of Medicine must occur within 10 working days of receipt of his / her decision and be in writing.

I have read the University of Arkansas Board of Trustee Policy 210.1 and hereby acknowledge that this outside activity does not violate this policy.