

## CLEAN COPY

### II D. Ethics in Public Service Requirements

The Washington State Ethics in Public Service Act, RCW Chapter 42.52, and its implementing regulations, WAC Chapter 292-09, establish a single code of ethics applicable to all state officers and employees. WSU's University Ethics Policy (EP45) incorporates state laws and regulations and also sets forth additional requirements in the areas of conflict of interest and conflict of commitment. Washington State University faculty members are state employees and are subject to the ethics law and rules, as well as University ethics policies. With very limited exceptions, faculty members are subject to the provisions of the Ethics in Public Service Act and related University policies at all times, including off-hours, weekends, and breaks during the academic year. This includes faculty on academic-year appointments.

Faculty should familiarize themselves with the provisions of the University Ethics Policy (EP45), which also requires all University personnel, including faculty, to undergo annual ethics training (available through the HRS training platform). For questions related to ethics requirements, faculty should contact the University's Ethics Compliance Advisor at [ethics@wsu.edu](mailto:ethics@wsu.edu).

This chapter provides additional policy and guidance on honoraria and compensation for outside activities, which may be of particular interest to faculty.

#### II D 1. Honoraria

State employees are prohibited from receiving honoraria unless specifically authorized by the employer. The University recognizes that allowing faculty to accept appropriate honoraria in connection with involvement in the larger community in order to carry out the University's academic and community outreach mission as a land-grant institution encourages participation in such activities. Accordingly, the University policy on honoraria specifically authorizes faculty to accept honoraria if offered for their participation in community, business, trade, and professional activities related to their University duties. Receipt of honoraria is not permitted in the following circumstances:

- a) The person offering the honorarium is seeking or is reasonably expected to seek a contract or a grant from Washington State University, and the employee is in a position to participate in the terms or the award of the contract or grant;
- b) The person offering the honorarium is regulated by the employer of the state officer or state employee and the officer or employee is in a position to participate in the regulation; or
- c) The person offering the honorarium is seeking or opposing or is reasonably likely to seek or oppose enactment of legislation or adoption of administrative rules or actions, or policy changes by Washington State University; and the employee may participate in the enactment or adoption.

Should any question arise regarding the propriety of any given honorarium, the potential recipient should contact their supervisor or the University's Ethics Compliance Advisor at [ethics@wsu.edu](mailto:ethics@wsu.edu) to obtain guidance as to whether or not the arrangement is proper.

#### II D 2. Compensation for Outside Activities - Contracting

The general rule is that no state employee may accept anything of economic value under any contract or grant outside the employee's official duties. Therefore, under the general rule, a Washington State University employee is prohibited from contracting to do private work. However, this general prohibition does not apply and the state employee can have a beneficial interest in a personal contract or grant if all six conditions listed in the law are met:

- a) The contract is bona fide and actually performed.
- b) The contract is not within the course of the employee's official duties.
- c) The performance of the contract or grant is not prohibited by RCW 42.52.040 regarding assisting another in transactions involving the state, or by applicable law or rules governing outside employment discussed in this section.
- d) The contract is neither performed for nor compensated by any person who is regulated by Washington State University or seeks to provide goods or services to Washington State University (same as person from whom the employee would be prohibited by RCW 42.52.150[4] from receiving a gift).
- e) The contract is not expressly created or authorized by the employee in their official capacity.
- f) The contract would not require unauthorized disclosure of confidential information.

If the contract is with a state agency, then additional requirements apply. Therefore, if a Washington State University employee privately contracts with Washington State University or the state Department of Ecology, for example, then one of the following conditions must be met:

- a) There is an open and competitive bidding or selection process in which more than one bid or grant application is received,
- b) There is an open and competitive bidding or selection process in which the employee's bid or proposal is the only one received and the employee has been advised by the state Executive Ethics Board that the contract or grant will not be in conflict with the proper discharge of official duties,
- c) There is no open and competitive process but the employee has been advised by the state Executive Ethics Board that the contract or grant will not be in conflict with the proper discharge of official duties,

The contracts or grants described in a), b), or c) must be filed with the Executive Ethics Board within thirty (30) business days of execution.

A Washington State University employee is not prohibited from performing duties under an employment contract with a governmental entity.

When the proposed compensated outside activity relates to scholarship, as defined by the faculty member's unit, and is within the scope and expectations of the faculty member's employment, the faculty member may seek preapproval to engage in the activity. See University Ethics Policy (EP45), Section 6.0.

In addition, see Section IV.D, Policy on Compensated Outside Service by Faculty Members—Consulting, and IV.E, Extended Professional Activities.

## **REDLINED**

### **II D. Ethics in Public Service Requirements**~~Ethics in Public Service~~

~~There are several applicable statutes regarding ethics in public service which include the~~ The Washington State Ethics in Public Service Law Act, RCW Chapter 42.52, and its implementing regulations, WAC Chapter 292-09, Use of State Resources—WAC 292-110-010 and Personal Use of University Resources—BPPM 20.37. The Ethics in Public Service Law, RCW 42.52, establishes a single code of ethics applicable to all state officers and state employees. WSU’s University Ethics Policy (EP45) incorporates state laws and regulations and also sets forth additional requirements in the areas of conflict of interest and conflict of commitment. ~~Washington State University faculty members are state employees and are subject to the ethics law and rules, as well as University Washington State University ethics policies. With very limited exceptions, faculty members are subject to the provisions of the Ethics in Public Service Act and related University policies at all times, including off-hours, weekends, and breaks during the academic year. This includes faculty on academic-year appointments.~~

Faculty should familiarize themselves with the provisions of the University Ethics Policy (EP45), which also requires all University personnel, including faculty, to undergo annual ethics training (available through the HRS training platform). For questions related to ethics requirements, faculty should contact the University’s Ethics Compliance Advisor at [ethics@wsu.edu](mailto:ethics@wsu.edu).

This chapter provides additional policy and guidance on honoraria and compensation for outside activities, which may be of particular interest to faculty. The basic provisions of the state ethics law are described below. When questions arise regarding potential ethics issues, the resources listed at the end of this subsection should be consulted.

~~The basic principle of the law is that public employment may not be used for personal gain or private advantage (RCW 42.52.900). The law prohibits state employees from having a financial interest or engaging in business activities that are in conflict with the proper discharge of their official duties (RCW 42.52.020). In addition to this general prohibition, the law prohibits a number of specific activities where one might receive improper private benefit as a result of state employment. The following only summarizes some basic provisions of the state ethics law.~~

#### **II D 1. Use of Public Property or Equipment for Private Purposes**

~~State employees may not use state property, equipment, or other resources for their private benefit, except as authorized by rules adopted by the state Executive Ethics Board (RCW 42.52.160). The state Executive Ethics Board and the University adopt rules from time to time which describe permitted and prohibited activities involving use of state property such as telephones, computers, e-mail, and consumables such as paper and envelopes. See also WAC 292-110-010 and BPPM 20.37.~~

#### **II D 2. Gifts**

~~A state employee may not solicit or receive a gift from any person if it could reasonably be expected to influence the performance of official duties (RCW 42.52.140). In addition, an employee may not accept a gift in excess of fifty (\$50) dollars in a given year from any one person or source. Certain items are specifically excluded from the fifty (\$50) dollars limit such as unsolicited floral arrangements or food and beverages consumed at hosted receptions where attendance is related to the employee's official duties.~~

## **II D 13. Honoraria**

State employees are prohibited from receiving honoraria unless specifically authorized by the employer. The University recognizes that allowing faculty to accept appropriate honoraria in connection with involvement in the larger community in order to carry out the University's academic and community outreach mission as a land-grant institution encourages participation in such activities. Accordingly, the University policy on honoraria specifically authorizes faculty to accept honoraria if offered for their participation in community, business, trade, and professional activities related to their University duties. Receipt of honoraria is not permitted in the following circumstances:

- a) The person offering the honorarium is seeking or is reasonably expected to seek a contract or a grant from Washington State University, and the employee is in a position to participate in the terms or the award of the contract or grant;
- b) The person offering the honorarium is regulated by the employer of the state officer or state employee and the officer or employee is in a position to participate in the regulation; or
- c) The person offering the honorarium is seeking or opposing or is reasonably likely to seek or oppose enactment of legislation or adoption of administrative rules or actions, or policy changes by Washington State University; and the employee may participate in the enactment or adoption.

Should any question arise regarding the propriety of any given honorarium, the potential recipient should contact their supervisor or the University's Ethics Compliance Advisor at [ethics@wsu.edu](mailto:ethics@wsu.edu) to obtain guidance as to whether or not the arrangement is proper. ~~The WSU honoraria policy is included in the Washington State University BPPM 20.37 (<http://www.wsu.edu/forms/manuals.html>).~~

## **II D 24. Compensation for Outside Activities - Contracting**

The general rule is that no state employee may accept anything of economic value under any contract or grant outside the employee's official duties. Therefore, under the general rule, a Washington State University employee is prohibited from contracting to do private work. However, this general prohibition does not apply and the state employee can have a beneficial interest in a personal contract or grant if all six conditions listed in the law are met:

- a) The contract is bona fide and actually performed.
- b) The contract is not within the course of the employee's official duties.
- c) The performance of the contract or grant is not prohibited by RCW 42.52.040 regarding assisting another in transactions involving the state, or by applicable law or rules governing outside employment discussed in this section.

d) The contract is neither performed for nor compensated by any person who is regulated by Washington State University or seeks to provide goods or services to Washington State University (same as person from whom the employee would be prohibited by RCW 42.52.150[4] from receiving a gift).

e) The contract is not expressly created or authorized by the employee in their official capacity.

f) The contract would not require unauthorized disclosure of confidential information.

If the contract is with a state agency, then additional requirements apply. Therefore, if a Washington State University employee privately contracts with Washington State University or the state Department of Ecology, for example, then one of the following conditions must be met:

a) There is an open and competitive bidding or selection process in which more than one bid or grant application is received,

b) There is an open and competitive bidding or selection process in which the employee's bid or proposal is the only one received and the employee has been advised by the state Executive Ethics Board that the contract or grant will not be in conflict with the proper discharge of official duties,

c) There is no open and competitive process but the employee has been advised by the state Executive Ethics Board that the contract or grant will not be in conflict with the proper discharge of official duties,

The contracts or grants described in a), b), or c) must be filed with the Executive Ethics Board within thirty (30) business days of execution.

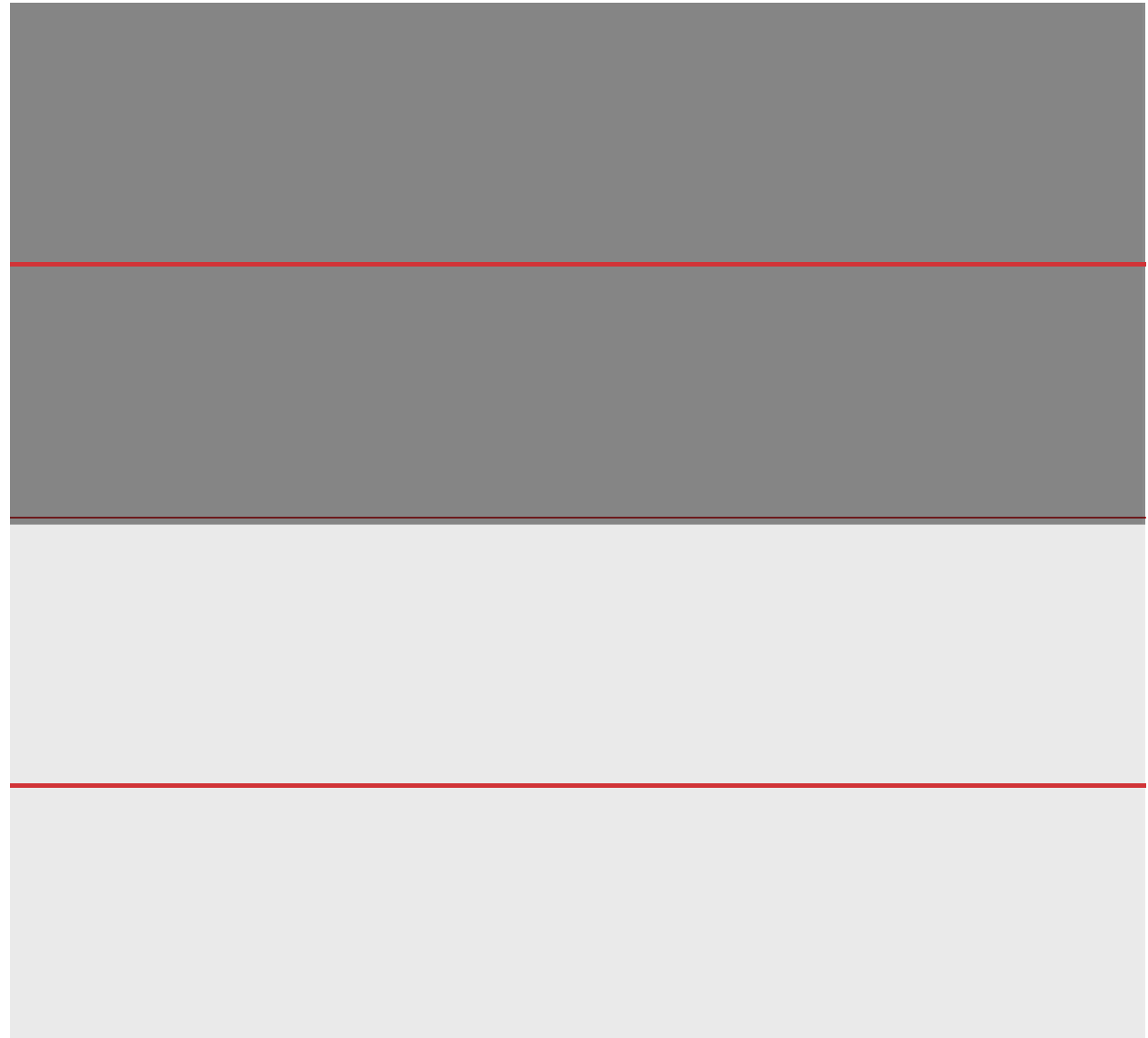
A Washington State University employee is not prohibited from performing duties under an employment contract with a governmental entity.

When the proposed compensated outside activity relates to scholarship, as defined by the faculty member's unit, and is within the scope and expectations of the faculty member's employment, the faculty member may seek preapproval to engage in the activity. See University Ethics Policy (EP45), Section 6.0.

In addition, see ~~See additional requirements in~~ Section IV.D, Policy on Compensated Outside Service by Faculty Members—Consulting, and IV.E, Extended Professional Activities.

## **~~II D 5. Financial Interest in Contracts or Transactions~~**

~~A state employee may not be beneficially interested in a contract that is made by, though, or is under the supervision of the employee, in whole or in part, or accept compensation or reward from any other person beneficially interested in the contract. A beneficial interest is the right to enjoy profit, benefit, or advantage from a contract or other property.~~



**Page 31 of 141**

2022 Faculty Manual

Presidential Approved for 2022-2023

*Section II. Freedom, Responsibility, And Discipline / II E. Faculty Responsibilities Related To Student Academic Integrity / II D 6. Disclosure and Use of Confidential Information*

~~For example, a beneficial interest includes the community property interest one spouse has in the other's earnings (RCW 42.52.030).~~

## **~~II D 6. Disclosure and Use of Confidential Information~~**

~~State employees may not disclose confidential information by reason of their official position or otherwise use such information for their personal gain or benefit, nor may they disclose confidential information to any person not entitled or authorized to receive it (RCW 42.52.050).~~

## **~~II D 7. Failure to Release Public Records~~**

~~It is a violation of the ethics law for state employees to intentionally conceal a record if they know the record is required to be released under the public disclosure law, (RCW 42.56). This prohibition applies if the employee is under a personal obligation to release the record and the decision to withhold is not made in good faith (RCW 42.52.050)[4].~~

## **~~II D 8. Information Resources Regarding State Ethics Law~~**

~~Information resources regarding state Ethics Law are available in the various administrative offices and in Holland Library. They include~~

~~RCW 42.52 Ethics in Public Service~~

~~Rules of the state Executive Ethics Board~~

~~Advisory opinions of the state Executive Ethics Board~~

~~WAC 292-110-010~~

~~WSU Business Policies and Procedures Manual, specifically BPPM 20.37~~

~~<http://www.wsu.edu/~forms/manuals.html>~~

~~Additional information is available on the Washington State Executive Ethics Board website at~~

~~<http://www.ethics.wa.gov/>~~

## **IV D. Policy On Compensated Outside Service By Faculty Members— Consulting**

### **IV D 1. General**

Washington State University encourages worthwhile professional outside services by faculty.

Full-time faculty members are compensated for full-time service to the University in instruction, research, public service, extension, or combinations of these responsibilities. The University expects that each full-time faculty member will assume a proper share of the functions and responsibilities of the department, college, or other equivalent administrative unit, and the University.

University employees, as consultants, can be valuable resources to government, industry, and public and private organizations. The University encourages consulting that does not interfere with the employee's performance of University duties and when no conflict of interest exists. Under certain circumstances and within certain limits, a faculty member may receive compensation for outside professional service work beyond the scope of prescribed duties.

When a faculty member wishes to engage in compensated outside scholarship activities that are *within* the expectations of the faculty member's position, they should follow the voluntary preapproval process set forth in the University Ethics Policy (EP45), Section 6.0 (Preapproval Process and Safe Harbor for Compensated Faculty Scholarship Activities). Following this process allows the faculty member to make limited use of University resources for these activities, and satisfies the faculty member's obligations with respect to several provisions of the Ethics in Public Service Act (RCW 42.52).

Indefinite faculty have the same constraints as permanent faculty in respect to earning extra compensation. See the BPPM 60.44.

#### **IV D 2. Guidelines**

The following guidelines are intended to provide for certain employees to engage in a limited amount of outside work for pay and to protect the integrity of the employee- public university work relationship.

a) Consulting



~~Page 115 of 141~~

~~2022 Faculty Manual~~

~~Presidential Approved for 2022-2023~~

~~Section IV: University Policies Affecting Faculty / IV.D. Policy On Compensated Outside Service By Faculty Members—Consulting / IV.D.2. Guidelines~~

Consulting, which must be consistent with the University's mission and enhance the faculty member's professional development, includes consulting, advising, research, demonstrating, or teaching for others in areas of professional competence for which the faculty member is employed by Washington State University. Not included is appearance on the program of a scientific or scholarly meeting attended mainly by professional peers or outside profit-making business activities engaged in for personal monetary gain. Some such activities are covered in section IV.E Extended Professional Activities.

~~2.~~ b) Non-Interference with Professional Duties

Outside work must not interfere with a faculty member's normal official University duties, including those non-classroom responsibilities expected of all faculty members.

~~3.~~ c) Remuneration

Compensation for outside work includes salaries, fees, honoraria and gifts beyond actual expenses. No compensation may be accepted by faculty members for tutoring students in courses they teach.

~~4.~~ d) Solicitation

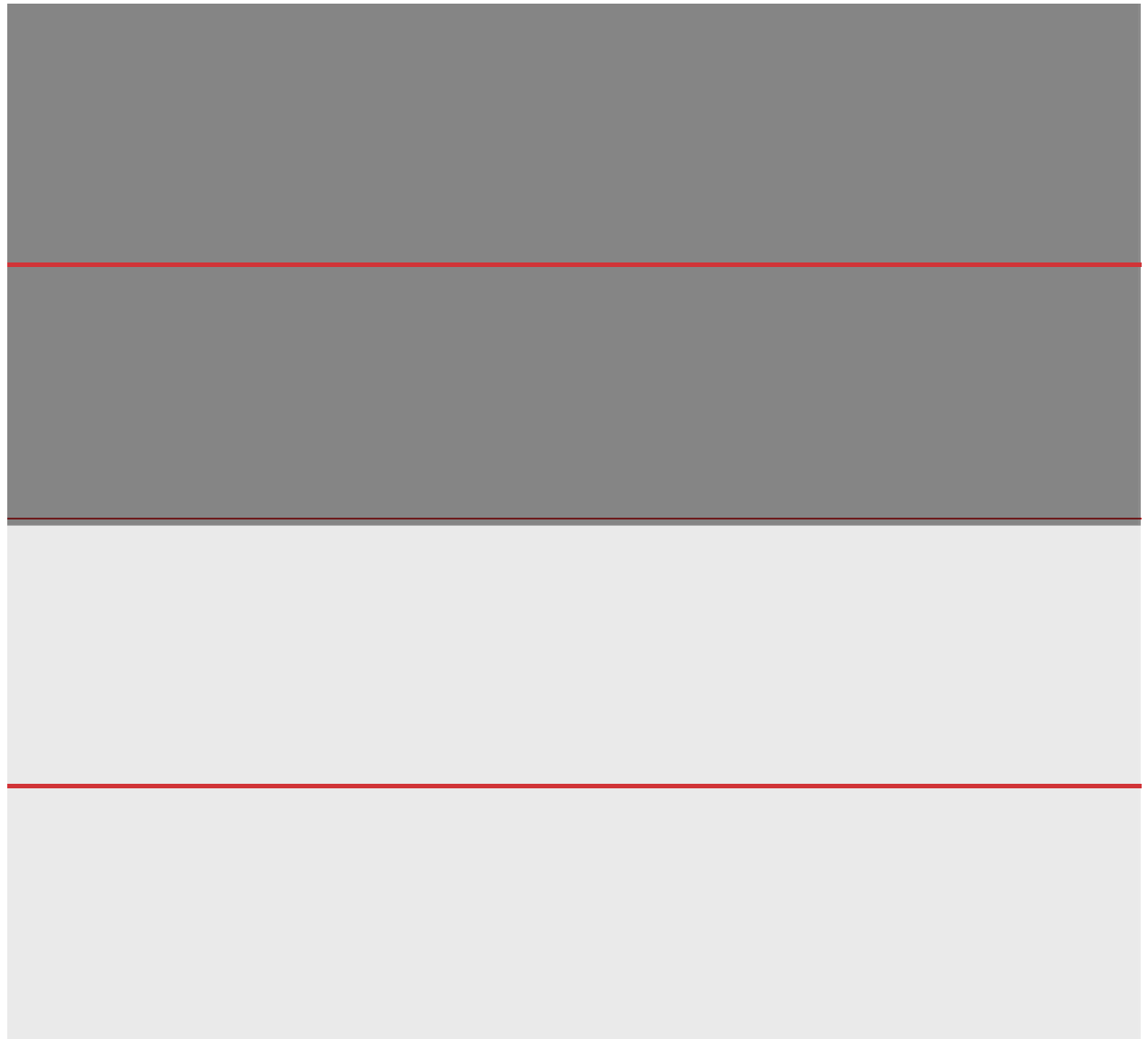
Attempts to arrange outside work must be consistent with state law (RCW 42.52 especially 42.52.120 and .160) and University policy.

~~5.~~ e) Limit and Approval

The University values faculty-student exchanges and high quality of performance of duties. Therefore, without special consent of the dean or other comparable unit administrator, and of the provost, on recommendation of the department chair, full-time faculty are allowed to spend the equivalent of one day per week in outside work for each week worked equivalent to the entire year of employment. All outside work must be disclosed promptly and reported annually by the faculty member to the department chair or comparable unit administrator. Such work by a department chair or dean must be reported to the provost. These provisions do not apply to full-time faculty on nine-month appointments outside periods of obligated service.

Part-time faculty members may be self-employed or may accept additional employment outside the University as long as the employment inside of and outside of the university do not exceed a full-time position.

The department chair, or other comparable unit administrator, must determine in each specific case whether outside professionally related service activities by an employee are interfering with official University duties. If, contrary to expectation, such activities prove in the judgment of the department chair or comparable unit administrator to interfere with prescribed standard University duties and obligations, the faculty member must either seek an acceptable revision of outside work activities or apply for a partial or full leave of absence.



~~Page 116 of 141~~

~~2022 Faculty Manual  
Presidential Approved for 2022-2023  
Section IV: University Policies Affecting Faculty / IV E. Extended Professional Activities / IV E 1. General~~

A faculty member deemed not to be meeting University obligations will be dealt with as provided in the Faculty Manual.

f) Use of Facilities

Except for preapproved uses of University resources in connection with compensated scholarship activities under EP45, Section 6.0 (Preapproval Process and Safe Harbor for Compensated Faculty Scholarship Activities). University facilities (equipment, materials, space, or clerical service) may not be used in connection with compensated outside professionally related service work.

#### g) Responsibility

The University assumes no responsibility for the competence or performance of a faculty member who engages in outside work for compensation. No such responsibility may be implied in any advertising or contractual documents. University stationery may be used only for official University business.

#### h) Assistance

For questions pertaining to compensated outside activities, faculty should contact the University's Ethics Compliance Advisor at [ethics@wsu.edu](mailto:ethics@wsu.edu).

### ~~IV E. Extended Professional Activities~~

#### ~~IV E 1. General~~

~~The policies and procedures of WSU should allow the expertise of University faculty and staff to be available to society without interfering with University programs or academic freedom, and without leading to conflict of interest.~~

~~A University employee's commercial involvements may at times go beyond ordinary relationships arising from normal duties, professional affiliations, and consulting agreements and thus may not be covered by University policies on extra compensation, patents, and copyrights. These extended involvements also raise the possibility of conflicts of interest, constraints on the free exchange of information, or excessive diversion from the employee's primary responsibilities to the University. The following policy and procedures for disclosure and approval of extended professional activities apply to extended involvement and permit supervisors flexibility for dealing with unusual situations.~~

~~As used in this section, the word supervisor means chair and dean or director for faculty who are not administrators; dean or director for chairs; the provost for deans, directors, and vice provosts; the president for vice presidents and the provost; and the unit head (chair, dean, director, vice president, provost, or president) for staff. Supervisors bear responsibility for approval of activities under this section. However, as part of the approval process, supervisors should review their actions with the provost.~~

#### ~~IV E 2. General Provisions~~

~~a) Activities for which approval shall be obtained under this policy include the following:~~

- ~~1. (1) Ownership of substantial equity in a commercial enterprise that carries on activities closely related to the employee's area of University work~~
- ~~2. (2) Holding a line management position in such a commercial enterprise~~
- ~~3. (3) Participation in the day-to-day operations of such a commercial enterprise~~

~~Page 117 of 141~~

~~2022 Faculty Manual~~

~~Presidential Approved for 2022-2023~~

~~Section IV: University Policies Affecting Faculty / IV E. Extended Professional Activities / IV E 2. General Provisions~~

~~4. (4) Assumption of an important continuing role in the scientific or technical aspects of such a commercial enterprise~~

~~5. (5) Transfer, for personal gain, to a commercial enterprise of nonpatented technology or potentially marketable information developed in University research programs~~

~~In case 5, approval from the Intellectual Property Committee as well as the supervisors is required.~~

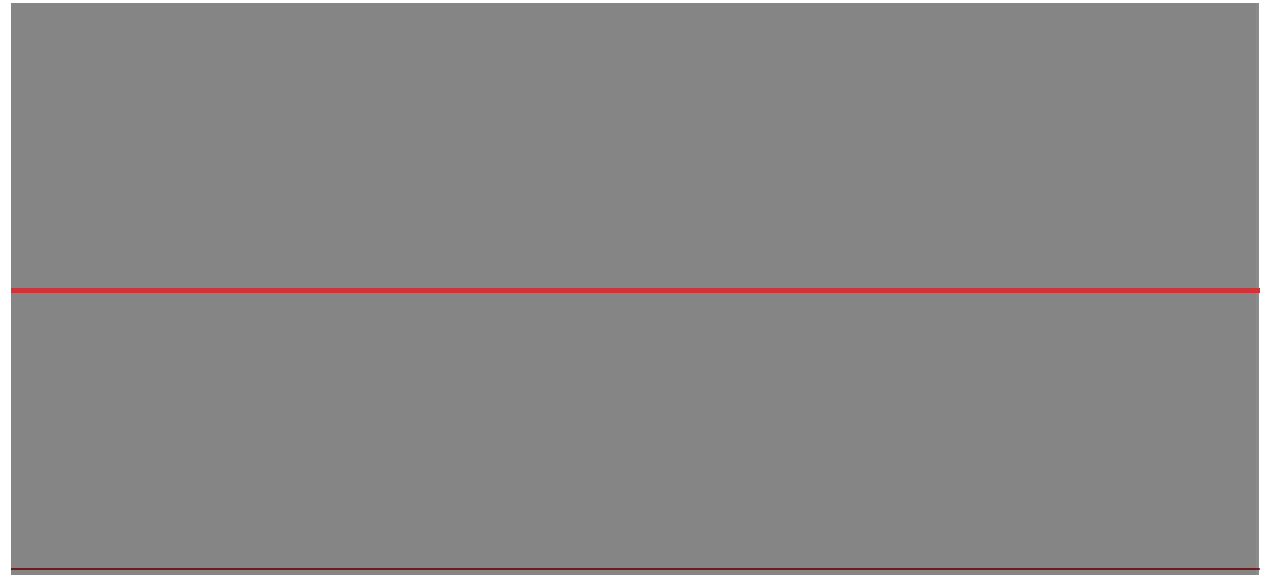
~~b) Activities for which approval need not be obtained under this policy include the following:~~

~~(1) Minor holding of stocks~~

~~(2) Uncompensated service on boards of directors and, in some instances, compensated service on company boards when this service does not conflict with the employee's University obligations~~

~~(3) Ownership of or equity in a corporation used solely for the employee's consulting as reported under the policy on extra compensation~~

~~The supervisor may determine that outside activities of certain temporary or part-time employees do not conflict with the University position and therefore exempt them from the requirements of this section.~~



~~c)~~

*d) requests:*

~~1. (1) The relationship should benefit the employee and the University~~

~~2. (2) The relationship should not interfere with the employee's primary obligations to the University, nor should it detract from the integrity of the University; in particular, there should be no conflict of interest as defined in RCW 42.52~~

~~(3) The employee's total time commitment during periods of obligated service, averaged over the term, to commercial involvements and outside work of all kinds should not exceed one day a week~~

~~(4) There must be no anticipated distortion of academic programs or direction of students, the protection of whose intellectual property should receive special attention~~

~~(5) There must be free access to the results of all research conducted at the University~~

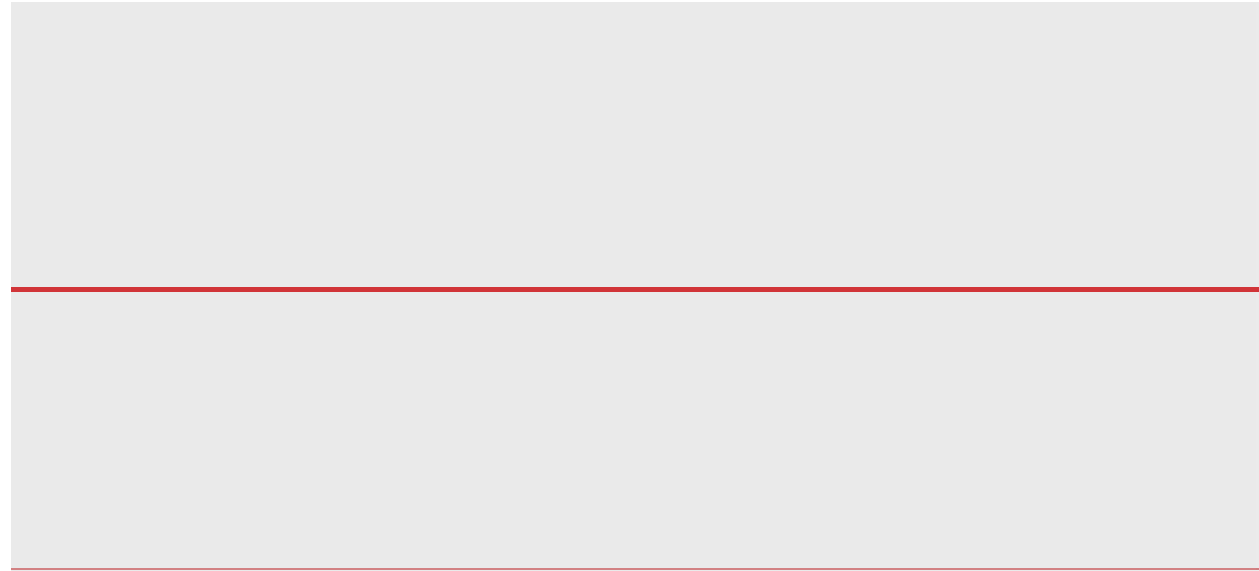
*Requests for approval of such commercial involvements must disclose*

~~(1) Nature of the relationship with the commercial entity~~

~~(2) Short and long term commitment of time and effort~~

- ~~(3) Financial aspects, including extent of compensation, equity, indirect or potential economic value~~
- ~~(4) Expected benefits to the commercial entity~~
- ~~(5) Expected benefits to the employee and to the University~~

*Supervisors should consider the following factors for acceptability of such*



Page 118 of 141

2022 Faculty Manual

Presidential Approved for 2022-2023

Section IV: University Policies Affecting Faculty / IV.F. Intellectual Property / IV.E.3. Appeals

~~(6) With rare exceptions, holding a line management position or participating in day-to-day operations in a commercial entity should not be approved for full-time employees; employees may engage in such activities if their appointments to the University are at an appropriate level less than full-time~~

~~(7) If the applicant for approval is a department chair or program director, the request should be consistent with unit goals, which the supervisor should determine by consulting representative members of the unit~~

~~e)~~

~~The information disclosed by the employee and a record of the supervisor's action on the employee's request shall be transmitted to the provost and placed in the employee's file where it will be protected from public disclosure to the extent permitted by law. Moreover, the supervisor shall not disclose financial aspects of the request except to their own supervisors.~~

### **IV.E.3. Appeals**

~~Negative decisions by the supervisors may be appealed to the provost. When this occurs, the provost shall establish a suitable review process in consultation with the Faculty Status Committee. The appeal shall be~~

~~filed within fifteen (15) business days of the decision and the provost shall reply within thirty (30) business days after receiving the appeal.~~

#### **IV-E 4. Evaluation**

~~a) By November 1, each employee who in the preceding year has had commercial involvements in areas related to their University responsibilities approved under the provisions of this section shall submit a summary of those activities to the approving supervisor(s) with a copy to the provost. Review may result in revision of activities based on apparent or emerging conflicts with University policy~~

~~b) Before the end of each fall semester, the deans, directors, and vice presidents shall review employee commercial involvements, as treated in this section and reported under 1, and prepare an evaluative report for the president~~

~~c) The summaries and reports required in items a) and b) may be combined with those prescribed for outside consulting. See also BPPM 60.44~~