

**UNIVERSITY OF NORTH CAROLINA SCHOOL OF THE ARTS**  
**Conflicts of Interest (Employees) Policy**  
**Policy #603**

**Source of Authority:** State Government Ethics Act, N.C.G.S. Chapter 138A;  
N.C.G.S. §§ 14-234.1 & 14-243;  
*UNC Code* § 300.2.2

**Revision Authority:** Board of Trustees (with approval of General Administration)

**History:**                   **First Issued:** February 17, 2011

**Related Policies:**       Additional Employment Policy #601;  
Conflicts of Interest (Board of Trustees) #108;  
Contracts & Authority to Sign Policy #109;  
Employment of Related Persons Policy #608;  
External Activities for Pay Policy #610;  
Facilities Use Policy #402;  
Improper Relations Policy #616;  
Research Misconduct Policy #120;  
Secondary Employment Policy #626;

**Responsible Offices:** Chancellor

**Effective Date:**       February 17, 2011

**I. Purpose**

This policy effectuates Board of Governors’ policy, provides guidance to faculty and staff to avoid conflicts of interest, and positions UNCSCA to be eligible to apply for grants from certain federal funding agencies in the future.

**II. Scope**

This policy applies to all full and part-time UNCSCA employees, including employees who are on leave if the leave is funded at least partially by UNCSCA or UNCSCA- related sources.

**III. Definitions**

A. “**Business**” means any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust, or any other legal entity organized for profit or charitable purposes, excluding University-Related Entities.

B. **“Category 1 Conflicts”** are activities or relationships that may create technical conflicts of interest but which are allowable because they do not compromise the integrity of faculty-student interactions, the objectivity of research results, or other interests of UNCOSA, a funding sponsor, or the public. Generally, these relationships have a minimal impact the employee or his/her immediate family’s personal financial interests, and otherwise do not represent a potential source of unreasonable bias. The activities below are representative, but not all inclusive, examples of activities constituting Category 1 Conflicts.

1. Receiving royalties from publications of books, music, scripts, films, choreography, designs or the licensure of intellectual property pursuant to UNC’s and UNCOSA’s policies concerning intellectual property.
2. Having an equity or financial interest in a corporation, the exclusive function of which is to accommodate the employee’s external consulting activities.
3. Receiving nominal compensation, in the form of honoraria or expense reimbursement, in connection with services to professional associations, service on review panels, presentation of scholarly or artistic works, and participation in accreditation reviews.
4. Membership in and service on professional or artistic associations, learned or art societies, professional or artistic review or advisory panels and accreditation bodies; presentations of lectures, papers, concerts, or exhibits; participation in seminars and conferences; and reviewing, critiquing or editing scholarly publications or artistic works as permitted under Policy on External Professional Activities for Pay so long as they do not conflict or interfere with the timely performance of the employee’s primary duties.

C. **“Category 2 Conflicts”** are activities or relationships which suggest a possibility of a conflict of interest, but which may be permissible after disclosure and analysis. At times the permissibility hinges on creation of certain limitations or monitoring. The activities below are representative, but not all inclusive, examples of activities constituting Category 2 Conflicts.

1. Requiring or recommending one’s own or one’s immediate family member’s textbook or other teaching aids, materials or equipment to be used in connection with UNCOSA programs, which produces compensation for the employee or family member.
2. Receiving compensation or gratuities (other than occasional meals, gifts, desk copies of textbooks, and the like) from any individual or entity doing business with the University or UNCOSA. Honoraria in excess of customary business expenses or fees are deemed to be gifts. □ □
3. Serving on the board of directors or scientific or artistic advisory board of an enterprise that provides financial support for UNCOSA research, productions, performances, or other creative endeavors, and the employee or a member of his or her immediate family may receive such financial support for research or an artistic programming under UNCOSA auspices.

4. Serving in an executive position in a for-profit or not-for-profit business which conducts research or other activities in an area related to the employee's university duties.
  5. Possessing a significant financial interest in a for-profit business which conducts research or other activities in an area related to the employee's university duties
  6. Possessing a significant financial interest in a business that competes with services provided by UNCSA or UNC.
  7. Accepting support for UNCSA research or creative projects under conditions that require research results to be held confidential, unpublished, or inordinately delayed.
  8. Engaging in any other activity that has the potential for creating a conflict of interest or commitment as defined herein. □□
- D. **“Category 3 Conflicts”** consist of activities which create possible conflicts of interest or present obvious opportunities or inducements to favor personal interests over UNCSA's interests. The activities below are representative, but not all inclusive, examples of activities constituting Category 3 Conflicts.
1. Participating in UNCSA research or creative activities involving technology or intellectual property owned by or contractually obligated to (by license or exercise of an option to license, or otherwise) a business in which the employee or a member of the employee's immediate family has a consulting relationship, has an ownership interest, or holds an executive position.
  2. Participating in UNCSA research or creative activities which are funded by a grant or contract from a business in which the employee or a member of the employee's immediate family an ownership interest.
  3. Assigning students, graduate students, or other trainees to UNCSA research or creative projects sponsored by a business in which the employee or a member of the employee's immediate family has an ownership interest.
  4. Assigning or allowing currently matriculating students, graduate students, or other trainees to participate (whether or not for pay) in activities of any entity in which the employee has a significant financial interest. (This provision does not apply to students following graduation or similar discontinuation of studies at UNCSA.)
  5. Assuming or retaining direct supervisory authority over one who is currently receiving financial support for any UNCSA project from a business in which the supervisor or a member of the supervisor's immediate family has a significant financial interest or a consulting relationships.
  6. Making referrals of UNCSA business to an external business in which the employee or a member of the employee's immediate family has a financial interest.

7. Associating the employee's own name or work with an external activity with UNCOSA in such a way as to profit financially by trading on the reputation or goodwill of UNCOSA or UNC, or implying sponsorship or endorsement by UNCOSA or UNC. Mere identification of UNCOSA or UNC as one's employer or of one's position at UNCOSA is permitted, provided that such identification is not used in a manner that implies sponsorship or endorsement by UNCOSA or UNC.
  8. Making unauthorized use of privileged information acquired in connection with one's UNCOSA employment responsibilities.
  9. Assuming an executive position in a for-profit business engaged in commercial, creative or research activities in an area related to the employee's university responsibilities.
  10. Taking administrative action in the course and scope of UNCOSA employment responsibilities that is beneficial to a business in which the employee or a member of the employee's immediate family has a significant financial interest or a significant consulting relationship.
  11. Influencing the negotiation of contracts between UNCOSA or UNC and an outside organization with which the employee or a member of the employee's immediate family has a significant financial interest or a significant consulting relationship.
  12. Serving on a committee, a governmental agency, or private entity and simultaneously participating in the consideration by such a committee of the regulation or application of a technology that is owned by or contractually obligated (by license or exercise of an option to license) to a business in which that employee, or a member of the employee's immediate family or household, has a significant financial interest or a significant consulting relationship.
- E. **“Conflicts of Commitment”** relates to an individual's distribution of efforts between obligations to one's UNCOSA employment responsibilities and one's participation in other activities outside of their UNCOSA employment, including such generally encouraged extensions of professional expertise as professional consulting. A conflict of commitment occurs when the pursuit of such outside activities involves an inordinate investment of time that interferes with the employee's obligations to students, colleagues, and to UNCOSA's missions. At UNCOSA, conflicts of commitment are governed by the Professional Activities for Pay policy.
- F. **“Conflicts of Interest”** relate to situations in which financial or other personal considerations may compromise, or have the appearance of compromising, an employee's professional objectivity in meeting the employee's UNCOSA duties or responsibilities, including decisions about personnel, the purchase of equipment and other supplies, the collection, analysis and interpretation of data, the selection of pieces for performances, and other artistic activities. A conflict of interest may occur when the employee, or any member of the employee's immediate family or household, has a personal interest in an activity that may affect the employee's decision making with respect to UNCOSA teaching, research, service or administration.
- G. **“Covered Position”** means the Chancellor.

- H. “**Executive Position**” means any position that includes responsibilities for a material segment of the operation or management of a business, including Board membership.
- I. “**Immediate Family**” means the employee’s spouse, domestic partner, children, parents, or siblings., .
- J. “**Primary Duties**” consist of assigned teaching, scholarship, research, institutional service requirements, and other assigned employment duties.
- K. “**Reviewing Officer**” means the employee’s supervisor.
- L. “**Secondary Duties**” consist of professional affiliations and activities traditionally undertaken by EPA employees outside of the immediate University employment context that contribute to the benefit of the profession and to higher education in general. Such endeavors, which may or may not entail the receipt of honoraria or the reimbursement of expenses, include membership in and service to professional associations and learned societies; membership on professional review or advisory panels; presentation of lectures, papers, concerts or exhibits; participation in seminars and conferences; reviewing or editing scholarly publications and books; and service to accreditation bodies.
- M. “**Significant Financial Interest**” means anything of monetary value, including but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights) except
1. Salary, royalties, or other remuneration from UNCOSA;
  2. Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
  3. Income from service on advisory committees or review panels for public or nonprofit entities;
  4. An equity interest that when aggregated for the employee and the employee’s family, does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a five percent ownership interest in any single entity; OR
  5. Salary, royalties or other payments that when aggregated for the employee and the employee’s immediate family over the next twelve months, are not expected to exceed \$10,000.
- N. “**Technology**” means any process, method, product, compound, instrument, device, or any procedure developed using UNCOSA time, facilities, equipment, or funds whether intended for commercial use or not.
- O. “**UNCOSA Employment Responsibilities**” include both "primary duties" and "secondary duties."
- P. “**University-Related Entities**” means the University of North Carolina, UNCOSA, or any other entity controlled by, affiliated with, controlling, or under common control with the UNCOSA.

## IV. Policy

### A. Generally

1. UNCOSA employees must avoid conflicts of interest that have the potential to adversely affect UNCOSA's or UNC's interests, to compromise objectivity in carrying out UNCOSA responsibilities, or otherwise to compromise the performance of UNCOSA's responsibilities.
2. UNCOSA employee's personal activities and financial interests must be arranged so as to avoid conflicts of interest.

### B. Permissibility of Conflicts

1. Category 1 conflicts are routinely allowable and no disclosure is required.
2. Category 2 conflicts may be allowable following disclosure to UNCOSA and, when necessary, the implementation of appropriate monitoring of the conflict
3. Category 3 conflicts are presumptively prohibited. Before proceeding with such an endeavor which constitutes a Category 3 conflict, the employee must obtain a valid waiver of the conflict from UNCOSA.
4. Under no circumstances may a UNCOSA employee serve on UNCOSA's Board of Trustees.

### C. Disclosure of Conflicts

1. All UNCOSA employees are required to complete and submit a conflicts of interest disclosure form on an annual basis on a schedule announced by the CAO. The CAO will remind all UNCOSA employees to complete and return the disclosure forms on an annual basis.
2. Updated disclosure forms must be submitted throughout the year if a change arises that the employee believes may
  - a. give rise to a potential Category 2 or Category 3 conflict of interest;
  - b. eliminate a previously disclosed conflict or interest; OR
  - c. results in an affirmative answer to any question previously answered in the negative on a conflicts disclosure form.
3. Disclosure forms must be submitted to the appropriate reviewing officer.

D. **Conflicts Management.** Once a conflict of interest has been identified through either the submission of a disclosure form or otherwise, the reviewing official must collect all of the relevant information and decide how to address the conflict.

E. **Appeals.** An employee may appeal any decision under this policy and its associated procedures regarding a conflict of commitment or interest pursuant to the procedures associated with this policy.

### F. Record Keeping & Confidentiality

1. Completed conflict disclosure forms are confidential personnel records as defined by the State Personnel Act and are treated as such.

2. Upon completion of the review process, the reviewing official will retain a copy of the disclosure and send the original for filing in the employee's official personnel file.

#### **G. Relevant Laws & Policies**

1. **Criminal Laws.** UNCSA employees may be subject to criminal liability under N.C.G.S. §§ 14-234 & 14-324.1 for actions involving conflicts of interest in contracting or the exploitation of certain confidential information.
2. State Government Ethics Act Requirements
  - a. Covered positions must comply with the State Government Ethics Act by filing a statement of economic interest with the State Ethics Commission as required by law.
  - b. **Prohibited Conduct:** In addition to the requirements and prohibitions of UNCSA's Conflicts of Interest – Employees Policy, the Chancellor is subject to the ethical standards set forth in the Article 4 of the State Government Ethics Act (N.C.G.S. §§ 138A-31 to 138A-44).
3. **Board of Governors Policy.** The Chancellor and the Chief Operating Officer shall comply with *UNC Policy Manual* § 200.1, § 5.
4. **Certain Grants:** Individuals receiving grants from certain federal agencies, such as the National Science Foundation and the National Institute of Health, must comply with all rules and regulations promulgated by the federal agency.

#### **H. Failure to Comply**

1. Failure to comply with this policy, including the failure to file a necessary annual disclosure of conflicts, may constitute misconduct or neglect of duty, and may subject the employee to discipline, up to and including termination of employment.
  2. If an employee's failure to comply with this policy has biased the design, conduct, or reporting of research funded by the U.S. Department of Health and Human Services or the National Science Foundation, the CAO is responsible for taking appropriate action to address the matter within UNCSA and for promptly notifying the awarding agency of the corrective action(s) taken or to be taken.
- I. **Presidential Approval.** The Chancellor will submit this policy, and its associated procedures and forms, to the President for review before implementation on a schedule established by the President.

#### **V. Revision History**

- A. February 17, 2011 – Adopted by Board of Trustees as part of UNCSA Policy Manual

**UNIVERSITY OF NORTH CAROLINA SCHOOL OF THE ARTS**  
**Conflicts of Interest (Employees) Procedures**  
**Procedure #603**

**I. Review of Disclosure Forms and Approval of Waivers**

- A. **Initial Review.** The reviewing official has the initial responsibility to review the form and to determine compliance with this policy. He/She must determine if:
1. all of the appropriate information has been properly and fully submitted; AND
  2. the information provided reveals any conflicts or potential Category 2 or Category 3.
- B. **Review of Category 2 Conflicts.** If the initial review determines that an employee has a Category 2 conflict, the following options are available, depending on the circumstances:
1. The employee may take necessary steps to eliminate the conflict through divestiture or severance of significant financial interest or through cessation of the activity; or
  2. The reviewing official may grant a waiver with or without specified conditions, such as public disclosure of significant financial interests, modification of the project plan, or monitoring requirements.
- C. **Review of Category 3 Conflicts.** If the initial review determines that an employee has a Category 3 conflict, the employee must, upon receipt of notice from the reviewing official, take immediate steps to eliminate the conflict or apply for a waiver.
1. In order to obtain a waiver, the employee must demonstrate that, in fact, neither the employee's objectivity nor UNCOSA's interests would be adversely affected.
  2. If the initial reviewing official decides to grant a waiver, with or without conditions, of a Category 3 conflict, the decision and the reasons for it must be forwarded to and reviewed by the next highest administrator who may accept, reject, or modify the decision.
- D. **Appeal.** An employee may appeal the reviewing official's decision to the CAO/COO. In the event that the reviewing official was the CAO/COO, the appeal will be heard by the Chancellor. The decision of the administrator hearing the appeal will be final.

**II. Possible Appropriate Responses to a Conflict of Interest.** The following are an incomprehensive list of appropriate responses to a conflict of interest:

- A. Concluding that while a conflict appears to exist, the nature and degree of the conflict found to be present are not significant and do not warrant action beyond the initial disclosure.
- B. Requiring public disclosure of significant financial interests.
- C. Requiring that the research, creative endeavor, or other activity is monitored by neutral, independent reviewers.
- D. Requiring modification of the work or production plan.

- E. Requiring that an employee with a conflicting interest be disqualified from participation in a particular project or activity or specified parts of the project or activity.
- F. Requiring divestiture or severance of significant financial interest or other interests which create conflict with the employee's UNCSA work.

**III. Distribution.** This policy, and its associated procedure and forms, will be included in the UNCSA policy manual, as well as on the UNCSA website and in the UNCSA Faculty Manual. The CAO's annual reminder to complete the conflicts of interest disclosure forms will also include a link directing employees to this policy, and its associate procedures and forms.

**IV. Certification of Compliance for Public Health Service Funding. Pursuant to 42 C.F.R. § 50.604(g), each application for Public Health Service funding must contain the following certification:**

“The University of North Carolina School of the Arts has in effect a written and enforced administrative process to identify and manage, reduce, or eliminate conflicting interests with respect to all research projects for which funding is sought from Public Health Service.

Prior to UNCSA's expenditure of any funds under the award, UNCSA will report to the Public Health Service awarding component the existence of a conflicting interest (but not the nature of the interest or other details) found by UNCSA and assure that the interest has been managed, reduced, or eliminated in accordance with 42 CFR Part 50; and, for any interest that UNCSA identifies as conflicting subsequent to the initial report under that award, the report will be made and the conflicting interest managed, reduced, or eliminated, at least on an interim basis, within sixty days of that identification.

Further, the University of North Carolina School of the Arts agrees to make information available, upon request, to the U.S. Department of Health and Human Services regarding all conflicting interests identified by UNCSA and how those interests have been managed, reduced, or eliminated to protect the research from bias.

UNCSA will otherwise comply with 42 C.F.R., Part 50.”