



# Eastern Kentucky University

## Policy and Regulation Library

Administrative Regulation: 8.3.11ADR

Responsible Office(s): Office of Human Resources

Effective: July 16, 2024

Next Review Date: Summer 2029

## Administrative Regulation: 8.3.11HRR Outside Activities

### Statement

Eastern Kentucky University (EKU) recognizes the potential for its employees to engage in consulting or related Outside Activities, as such activities can contribute to the professional development and stature of the faculty or staff member, assist in the transfer of knowledge to the general community, and may benefit the University. Such benefits may be, but are not limited to, enhancing the professional expertise of EKU's faculty and staff, establishing and maintaining professional contacts, associations, and relationships, as well as developing opportunities for sponsored research.

Both Conflicts of Interest and Conflicts of Commitment may arise out of Outside Activities where an employee compromises their professional standards or allows an Outside Activity to interfere with their obligations to students, colleagues, or the primary mission of the University. The limits set forth in this Regulation are intended to strike a fair balance between Outside Activities and the obligations of the employee to the University. Though comprehensive, this Regulation cannot deal unambiguously with every Outside Activity. In cases of doubt, the primary guide should be the intention to promote the interests of the University as a place of teaching, research, and service.

The primary safeguard for ensuring compliance with this Regulation is the requirement that the employee secure advance approval for Reportable Outside Activities to ensure that no Conflicts of Interest and/or Conflicts of Commitment exist.

### Entities Affected

- Full- and Part-time Staff, including Academic Administrators

- Faculty

## Procedures

Prior to engaging in an Outside Activity, employees should consult the procedures below to determine whether the prospective activity requires approval or falls into one or more of the Pre-Approved Outside Activities listed in Section II. While the Procedures apply explicitly to Full-Time Staff and Faculty, Part-Time Staff and Faculty should also be aware of these expectations, as all employees regardless of classification are required to submit an Outside Activities Form if they intend to serve as an expert witness or legal consultant, or wish to engage in any Outside Activity, regardless of compensation, that reasonably appears to create a Conflict of Interest or a Conflict of Commitment.

### **I. Reportable Outside Activities**

- A. Full-time Staff and Faculty must request and receive prior written approval for the activities listed below, unless it falls under the list of pre-approved Outside Activities outlined in Section II:
  1. Outside paid professional activity, such as consulting for a company, organization, or individual where the work is for the same or similar types of activities or area of expertise for which the employee was hired by the University;
  2. Teaching and/or research appointments for an entity other than the University;
  3. Serving as an expert witness or legal consultant;
  4. Any Outside Activity, regardless of compensation, that reasonably appears to create a Conflict of Interest or a Conflict of Commitment.

### **II. Pre-Approved Outside Activities**

- A. Outside Activities that are part of the normal duties of members of the University do not fall under the auspices of this Regulation and therefore do not require prior notification or approval. However, employees should always bear in mind the potential for Conflicts of Commitment and/or Conflicts of Interest. Exempted professional work may include, but is not limited to:
  1. Committee work or leadership positions on professional committees, societies, and boards;
  2. Publication of scholarly work;
  3. Editorial positions (e.g., Editor-in-Chief, Associate Editor) of scholarly journals/books;
  4. Site visits or field work as it relates University responsibilities;
  5. Short-term or limited lectures, presentations, or workshops outside the University; and
  6. Evaluation of manuscripts, tenure and promotion files, and grant proposals for publishers, other universities, foundations, and other outside entities.

### **III. Use of University Resources, Name, and Other Identifiers**

- A. Outside Activities which require significant use of University facilities and equipment, or the employment of University faculty, staff, and students, are prohibited. Employees may make only incidental use of University resources, such as their University computer or telephone, for purposes unrelated to their employment with the University.
- B. Furthermore, University spaces, facilities, or assets shall not be used for Outside Activities in which the employee is receiving remuneration without a proper agreement in place in which the faculty or staff member leases the space for private use, as approved by University Counsel and the Vice President for Finance and Administration, and in conjunction with the University Policy 1.2.1, Code of Ethics.
- C. It must be made clear in all instances that the statements and opinions of the employee are their own personal statements and opinions and do not represent in any way an official statement or opinion of ECU, and the employee is acting as a private individual, not as a University employee. To this end, employees may not use the University's name, trademarks, logos, indicia, or letterhead in any capacity while engaged in their Outside Activities. An employee may not use an ECU ID number or a University address for the purpose of conducting personal consulting or Outside Activities.

#### **IV. Legal Matters**

- A. The University does not accept legal responsibility for privately initiated activities.
- B. Faculty and staff members who are asked to serve as expert, professional, or consulting witnesses may do so only if the engagement is approved as a Reportable Outside Activity, does not constitute a Conflict of Commitment or an individual financial Conflict of Interest, and is approved by University Counsel.
- C. Faculty and staff may not testify as an expert or consulting witness in any civil matter:
  - a. Adverse to the interests of ECU, any affiliated ECU entity, or the Commonwealth of Kentucky; or
  - b. For or on behalf of a law firm that is currently representing anyone with a claim or lawsuit against ECU or any ECU-affiliated entity.
- D. In addition to the above factors, it is prudent to discuss any potential expert or consulting witness engagement in a civil matter with your department, school and college leadership, as well as with the Office of Sponsored Programs, to ensure the proposed work will not adversely impact University interests or key stakeholder relationships. The Office of University Counsel can facilitate these discussions.
- E. Once approved by the Office of University Counsel, employees may retain compensation for their work as an expert witness or legal consultant but will also be personally responsible for any expenses associated with the expert witness Activity (including travel expenses, legal representation, accounting fees, professional liability, etc.) and all other requirements as set forth in this Regulation.

## **V. Process for Obtaining Approval**

- A. The process for obtaining approval is initiated by first completing the Outside Activities Form. Approvals required for faculty requests include their chair, dean, and the Provost. Approvals required for staff requests include their supervisor, the applicable Vice President, and any additional levels of direct reports in between.
- B. It is the employee's responsibility to assess whether the potential for a Conflict of Interest or Conflict of Commitment exists. When in doubt, the Outside Activities Form should be submitted.
- C. Employees must submit an Outside Activities Form:
  - 1. Each time they plan to engage in a Reportable Outside Activity; and
  - 2. Any time there is a significant change in an activity which has previously been reported.
- D. Time Commitment
  - 1. Except for the limited pre-approved Outside Activities outlined in Section II, the time commitment expected for any activity described in Section I should generally not be more than 7.5 hours per calendar week, but in no event exceed a maximum of 30 hours per month.

## **VI. Other Considerations for Review**

- A. The approval authorities detailed in Section V (A) above shall consider, on a case-by-case basis, whether such Outside Activities benefit the University and contribute to the employee's professional development, and whether such Outside Activities conflict with the employee's primary duties or create a Conflict of Interest or Conflict of Commitment with University obligations.
- B. All employees shall have the right to request reconsideration of any final decision under this procedure. A Request for Reconsideration must be submitted in writing to the Department Chair or Unit Head within ten (10) calendar days. The Request should include, at a minimum, an explanation of why the request should be reconsidered along with accompanying documentation supporting the Request. Regardless of the resolution, the Department Chair or Unit Head reviewing the Request shall provide the employee with a written determination within fifteen calendar (15) days of reconsideration. The reconsideration outcome shall be considered final.
- C. In conducting the review of the Form and any supporting documents, approvers are strongly encouraged to contact University Counsel or Human Resources if there are concerns that there could be potential violations of University policy. An employee cannot have a financial or fiduciary interest in a contract involving the University except as provided by law.
- D. Ownership by an employee as a principal, officer, director, partner or other like status, of an interest in a business that will conduct business with the University or has the potential to be considered a competitor to the University or will employ students in a paid or unpaid capacity must be disclosed to the Department Chair and Unit Head with copies to the Provost or Director of Human Resources. This disclosure must provide the full details of one's relationship to the business, one's obligations to the business, how the relationship might impact one's teaching and research

obligations to ECU, what potential Conflicts of Interest or Conflicts of Commitment could exist, how Conflicts of Interest and/or Conflicts of Commitment will be avoided, etc.

- E. Consulting agreements should be examined to ensure that the assignment of rights to intellectual property from Consulting activities does not conflict with University Regulation 4.4.2, Intellectual Property.
- F. Grants and contracts administered through the Office of Sponsored Programs are not considered to be Consulting agreements. Compensation for faculty and staff engaged in external grants and contracts are governed under University Regulation 4.4.8, Salary Compensation on Externally-Sponsored Projects.

## Definitions

- **Conflict of Commitment:** A Conflict of Commitment exists when an employee's Outside Activities interfere with the employee's duties and responsibilities to the University, including their commitment of time and intellectual energies.
- **Conflict of Interest:** A Conflict of Interest occurs when an employee has a direct or indirect financial or other interest, engages in a business transaction or professional activity, or incurs any obligation that is in substantial conflict with the proper discharge of the employee's duties and responsibilities to the University.
- **Consulting:** Professional work performed outside University auspices that is substantively related to an employee's area of expertise and duties at the University. Included is Consulting for a company owned by oneself or by a member of one's immediate family.
- **Outside Activities:** Any activity, paid or unpaid, that is related or similar to the employee's University responsibilities and is performed outside of the University (excluding professional service). This may include, but is not limited to, outside employment, Consulting, advising, conducting research outside of the University, or roles on outside boards.
- **Outside Activity Day:** A normal business day (from 8:00 a.m. to 4:30 p.m.) during which the University is open. For faculty, Outside Activity Days would also include hours during which the faculty member is scheduled to teach. Absences from the University of longer than four (4) hours for the purposes of Outside Activities are considered an Outside Activity Day.
- **Reportable Outside Activity:** As discussed in Section I, a Reportable Outside Activity is any Outside Activity for which an employee must secure advance written approval to participate in, in order to ensure no Conflicts of Interest or Conflicts of Commitment exist.

## Responsibilities

- **College Dean**

- Reviewing requests covered under this Regulation
- Approving requests for Outside Activities
- **Faculty & Staff**
  - Seeking approval for reportable Outside Activities covered under this Regulation
  - Accurately reporting any adjustments to the reported Consulting/Outside Activity Days
  - Informing the University of Outside Activities that may result in assignment of intellectual property to a third party
- **Department Chair/Unit Head**
  - Ensuring that Consulting or Outside Activities requested by faculty/staff do not result in a Conflict of Interest or Conflict of Commitment
  - Approving requests for Outside Activities
- **Office of University Counsel**
  - If an EKU employee consults as an expert witness in a legal matter, the Office of University Counsel shall be responsible for vetting for any potential Conflicts of Interest
- **Dean of Online Learning, Graduate Education, and Research**
  - When appropriate, the Dean of Online Learning, Graduate Education, and Research is responsible for determining if a potential Outside Activity should be administered through Sponsored Programs rather than under this Regulation

## Violations of the Regulation

Violations of this Regulation include but are not limited to: failing to file the appropriate paperwork with the University; filing incomplete, erroneous, or misleading paperwork; failing to provide additional information as required by the approving authority; or non-compliance with any related University policy. Violations may result in denial of approval for Outside Activities and may also be the basis for employee discipline, up to and including termination, depending on the nature and circumstances of the violation. Any discipline imposed will follow the applicable Board of Regents and administrative policies and procedures for the individual's employment classification.

## Regulation Adoption Review and Approval

### Regulation Revised

<u>Date</u>	<u>Entity</u>	<u>Action</u>
October 18, 2024	University Counsel	Editorial Revision

### Regulation Issued

<u>Date</u>	<u>Entity</u>	<u>Action</u>
July 16, 2024	President	Approved
Unknown	Unknown	Update of
December 6, 1982	Faculty Senate	Policy
November	President Hanley	Approved
October 15, 1966	Funderburk	Approved
	Board of Regents	Adopted
September 26, 1966	Council of Instruction	Approved

