

UMCES Policies

II-3.10-UMCES Policy on Conflict of Interest and Conflict of Commitment

I. Purpose and Applicability

The mission of the University of Maryland Center for Environmental Science (UMCES) includes advancement of knowledge, support of the scholarly professions, and service to our communities. This mission is advanced when members of UMCES forge links outside the University as scholars, consultants, participants in research and development ventures, advisors to government entities, and in other capacities that relate to their professional expertise. UMCES strongly encourages the development of such links. UMCES recognizes, however, that these very positive interactions create the occasion for real, potential, or apparent conflicts of interest and commitment, any of which may damage the individual and/or the institution.

The intent of this policy is, in part, to provide guidance that will enable these extra-university liaisons to continue while avoiding situations that could harm the individual and/or UMCES through the reality or perception of ethical, legal, or financial conflicts. Although such conflicts may arise most often in connection with outside activities, the policy and the procedures relating to them apply to internal activities as well.

This Conflict of Interest and Conflict of Commitment Policy implements Board of Regents' policies on Professional Commitment of Faculty (II-3.10) and Conflicts of Interest in Research or Development (III-1.11). It is also in compliance with the Maryland Public Ethics Laws and federal funding agency regulations.

II. Applicability

This policy applies to all UMCES employees

III. Policy Overview

We are concerned with two broad kinds of conflict:

- A. Conflicts of interest, which typically involve potential financial gain or personal benefit to an employee or related individuals; and
- B. Conflicts of commitment, which typically arises when otherwise positive activities may compromise the fulfillment of an employee's basic job responsibilities to UMCES.

It is the policy of UMCES that officers, faculty, staff, and other employees acting on the institution's behalf have an obligation to report actual or potential ethical, legal, financial, or other conflicts of interest and commitment. Further, working with supervisors and institutional management, either these employees must find means to resolve or to manage¹ any conflicts, or they must not participate in the activities that give rise to them.

Situations where such conflicts may arise can be sufficiently complex that opinions may differ as to whether they actually exist or are likely to arise. Accordingly, UMCES emphasizes two elements essential to the effective implementation of this policy:

1. Full and prompt disclosure to an appropriate supervisor of significant activities and interests outside UMCES. This disclosure enables potential conflicts to be reviewed and, if appropriate, properly managed to the benefit of all parties concerned; and

2. Availability of advice and counsel to individuals and to supervisors, which provides continuing and relevant guidance and clarification where the existence of a conflict is uncertain, or where a conflict – real, potential, or apparent – should be managed.

Personal responsibility, integrity, and high ethical standards are the principal factors in avoiding such conflicts and UMCES expects that all officers, faculty, staff, and other employees will conduct their activities in a manner that reflects credit on themselves, their professions, and UMCES without need for specific criteria or rules of conduct.

Some situations, however, involve unique knowledge and understanding or are sufficiently complex that judgments may differ on whether or not there is a conflict. Individuals of the highest integrity may, therefore, unknowingly place themselves in situations where conflict exists. Liaison between the unit head (Laboratory or Sea Grant Director) and faculty, staff, and other employees is the principal means of communication and disclosure in matters involving professional activities and is the principal means by which conflicts of interest and conflicts of commitment should be addressed and resolved.

Clearly, outright dishonesty is a very serious matter that cannot be condoned and will be dealt with promptly in the following or related circumstances: stealing; lying about matters connected with work; falsifying records; making unauthorized personal use of institutional or government property; doing unauthorized private work on UMCES; and giving or receiving a bribe in any form. Such dishonesty is grounds for serious disciplinary action, up to and including discharge.

IV. Conflicts of Interest

The term “conflict of interest” denotes situations in which members of the UMCES community are in a position to gain financial advantage or personal benefit (broadly construed) arising from their UMCES positions, either through outside professional activities or through their research, administrative, or educational actions or decisions at UMCES. Sometimes these conflicts can be managed, and sometimes they must be avoided, but they must always be recognized and acted upon.

Because UMCES employees are also State employees, a conflict of interest may also arise in the context of State Ethics Law², which, among other things, generally restricts the interests and relationships that a UMCES employee may have with any external entity that also does or seeks to do business with the UMCES. However, in recognition of the UMCES’s role in promoting economic and technological development in the State, certain relationships or interests that would otherwise violate State Ethics Law (and/or UMCES or federal policies) may be permitted if they involve entities engaged in or having an interest in the outcome of research or development. In order to qualify for an exemption from the State Ethics Law, a relationship, interest or other activity must be reported, reviewed, and approved in accordance with UMCES’s Conflict of Interest and Conflict of Commitment Procedures.

V. Conflicts of Commitment

The term “conflict of commitment” denotes situations that arise when outside professional activities or other significant commitments, whether outside or within the UMCES, interfere with an employee’s (faculty or staff) meeting his or her primary job responsibilities to the UMCES.

For Faculty: As part of those responsibilities, full-time faculty at the rank of Assistant Professor, Associate Professor, and Professor ordinarily will be engaged regularly and effectively in graduate teaching and advising; will be engaged in high quality research, scholarship, and creative activity; and will be committed to service in the interests of UMCES, the profession, and the community. Therefore, it is generally expected that a faculty member in these ranks will spend a significant part of his or her time physically at and actively involved in UMCES. Exceptions will occur in particular cases as determined by agreement between the

faculty member and his or her unit head (see the definition of "unit head" in paragraphs 5 and 6, below). Part-time faculty and faculty in other ranks have prescribed domains of job responsibility. Professional activities outside their specific scopes of work should not interfere with their ability to meet performance requirements.

In addition, a faculty member is continually called upon to judge the quality of work of students, staff, and other faculty members, and participation of these individuals in the external activities of the faculty member might color his or her judgment and present a conflict of commitment. The overriding commitment of the faculty member is to base these judgments on the work these individuals do at and for UMCES.

In summary, while the quality of a faculty member's contributions is enhanced by interaction with industry, business, government, and other institutions of our society, these interactions can also lead to conflicts of commitment. Therefore, the appropriate balance of activities and of involvement of other faculty, staff or students in these activities, should be determined by agreement with one's unit head.

For Staff and Other Non-Faculty Employees: Corresponding cautions are relevant for UMCES staff and other employees. Staff members have prescribed domains of job responsibility, defined and evaluated through the PRD process. Outside activities beyond the employee's scope of work, whether professional service or personal consulting should not interfere with the staff member's ability to meet performance requirements.

VI. Disclosure

The responsibility for managing potential conflicts of interest or commitment begins with the faculty and staff members involved, who must disclose certain relationships or activities in two ways, first to their lab directors or unit heads as they arise, and second in an annual summary of such activities. Further action is required only in cases where conflict --real, potential, or apparent-- is identified by the unit head or the employee involved.

A. Disclosure and Consultation

It is the obligation of faculty and staff members to keep their lab directors or unit heads informed in adequate detail and in timely fashion regarding all significant (see section VII – defined by each unit) outside professional activities, service on external committees, and other special assignments, whether within or outside of UMCES.

It is the further obligation of faculty and staff members to discuss with their unit heads the assumption of significant professional outside activities that are new in scope or kind, including patent arrangements, before entering an agreement to undertake them. This is particularly true of those outside activities, such as direct and active management of outside business entities, that may conflict with the requirement that the primary loyalty of a full-time faculty member be, at all times, to UMCES; that may be incompatible with a faculty member's meeting the full range of his or her obligations to UMCES; or that may otherwise constitute a conflict of interest or conflict of commitment.

Whenever they have reason to believe a relationship or situation may involve a real, potential, or apparent conflict of interest or commitment, faculty and staff members and unit heads are obliged to initiate the reporting procedures outlined in Conflict of Interest and Conflict of Commitment Procedures that follow this policy. It should be noted that all identified conflicts of interest must be satisfactorily managed, reduced, or eliminated prior to UMCES's expenditure of any funds under an award for any sponsored project affected.

B. Annual Report on Outside Professional Activities

Each faculty member must complete an Annual Report on Outside Professional Activities. This is in place of the semi-annual consulting report previously required for faculty. This report is

required by BOR Policy II-3.10 and its purpose is to maintain a continuing picture of such activities and to identify situations that could lead to potential conflicts of interest and/or commitment.

The Annual Report seeks information in several areas:

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Information on outside companies with which the individual is involved and the relation of the individual to the company should be disclosed. This information is useful in avoiding situations where conflict of interest could become a concern. A description of any significant financial interest or management responsibility the individual has in the company should be given. However, in the case of outside consulting to a company, the amount or rate of compensation need not be stated, and no company-confidential information should be included in the brief description of the nature of the work.

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All significant outside professional activities should be disclosed, whether compensated or not, along with estimates of the amount of work done in them. This information is useful in avoiding situations where conflict of commitment could become a concern. Only those activities that are connected with the professional expertise of the individual are relevant, and only those need be included.

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A statement should be signed that attests to the fact that the employee has read and understood this UMCES Policy on Conflict of Interest and Conflict of Commitment and is in compliance. The employee may be in compliance even if a potential conflict had been reported during the year, since actions following the reporting may well have concluded that a conflict did not exist or could be managed through a defined process.

VII. Role of the Unit Head

It is a responsibility of unit heads (Laboratory Directors/ Sea Grant Director) to ensure that members of the unit are familiar with UMCES policies and procedures relative to outside professional activities, conflicts of interest, and conflicts of commitment. The role of unit heads in regard to such matters further includes the following:

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The unit heads together, in consultation with the unit's faculty and with the approval of the President, determine guidelines for what are significant outside activities with a potential for conflict that must be routinely reported. Within these guidelines he or she stays currently informed as to the outside professional activities of members of the department and reviews Annual Reports on Outside Professional Activities. The unit head is responsible for monitoring the level of outside activities for appropriateness relative to the mission of UMCES.

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The unit head is knowledgeable concerning the kinds of activities that may lead to conflicts and, in consultation with the Committee on Conflict of Interest where appropriate, advises faculty, staff, and other employees so that they may avoid conflicts of interest and commitment or situations that may adversely affect UMCES;

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The unit head maintains a special overview of outside professional activities in which senior and junior faculty and students in the department are associated together and makes clear to all parties the necessity to safeguard the academic relationship;

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The unit head prompts a Conflict of Interest Disclosure Form when appropriate.

VIII. Additional Standards for Outside Professional Activities

Outside professional activities are generally permitted as long as they do not result in a conflict of interest that, after being disclosed, cannot be managed or, a conflict of commitment. However, in accordance with Board of Regents and UMCES policies, faculty, staff, and other employees are expected to comply with the following additional standards relating to these outside professional activities.

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- Payment for consulting or professional service rendered within UMCES or to another University System institution or State agency is generally not permitted. Exceptions must be approved in advance, in writing, by the unit head and the President. Payment for work on UMCES contracts or grants will be approved only in unusual or exceptional circumstances and, usually requires specific prior approval from the sponsor.

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- Modest use of UMCES resources in connection with consulting or other outside activities is generally permitted; however, faculty, staff or other employees must notify the unit head whenever outside activities may involve more substantial use of such resources. Such use is not permitted unless prior arrangements for reimbursement (including specification of costs and time frame) are agreed upon, in writing, or a written waiver is obtained from the unit head. UMCES staff or other employees should not be used to support outside activities without prior written approval of the unit head.

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- Faculty, staff or other employees may not, in any way, convey endorsement by UMCES of the recommendations or results of their outside activities.

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- Faculty, staff or other employees may not enter into any agreement that conflicts with UMCES or Board of Regents policies on intellectual property without the written waiver or consent of the President and/or Chancellor, as appropriate. Care should be taken to ensure that outside activities do not conflict with other applicable UMCES policies.

1 To "manage" a conflict means to set procedures in place that will serve to prevent the harm that could otherwise arise from the conflict.

2 The conflict of interest provisions of Maryland State Ethics Law are codified in the State Government Article of the Annotated Code of Maryland, Title 15, and Subtitle 5. (To find this online, go to <http://mlis.state.md.us/#stat> and click on Maryland Code Online.) Among other things, State Ethics Law generally prohibits UMCES employees from having financial interests in or employment relationships (including consulting and board memberships) with entities under the authority of the UMCES or which have or are negotiating contracts or subcontracts with the UMCES. Other employment relationships (including consulting) prohibited under State Ethics Law include those that could impair the impartiality or independent judgment of the employee and those that involve an entity that is a party to a State contract (greater than \$1000) if the employee's duties include matters that substantially relate to the subject matter of the contract. State Ethics Law also contains other prohibitions against State employees: participating in matters in which they (or certain family members or business entities) have an interest; soliciting and accepting gifts; using the prestige of their office or confidential information for private gain; and representing parties in State matters for contingent compensation.

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