Reviewer Guide
Updated 9/10/19

This document is intended to serve as a guide to assist Level 1 and Level 2 Reviewers in analyzing disclosures of Outside Activities and Financial Interests in UFOLIO. Additional resources that may be helpful include:

- UF Regulation 1.011 – Disclosure of Outside Activities and Financial Interests
- UF Guidelines on Conflicts of Interest and Outside Activities
- Florida Code of Ethics – Florida Statutes Chapter 112, Part III
- UF Intellectual Property Policy

Initial Review

1. Review all information in the disclosure.
2. Review external website(s) as needed to learn more information about entity/activity/interest.
3. Review comments of other reviewers, if applicable, and ensure appropriate approvals are documented.
4. Review attached contract/documents, if applicable.
5. If needed, clarify details with discloser and request disclosure be updated with any significant details, as warranted, using UFOLIO’s “Clarifications Requested” feature.

Ancillary Reviews

Level 2 reviewers will be able to select certain ancillary reviewers for disclosures requiring supplemental review if the discloser is reporting:

- activity that raises legal issues the Office of the General Counsel needs to review (General Counsel Ancillary)
- expert witness/legal consulting activity that could involve other UF healthcare providers (SIP Ancillary)
- activity that involves a foreign entity (International Ancillary)
- activity and/or interest that creates a potential purchasing conflict (Purchasing Ancillary)
- activity with an entity that sponsors the discloser’s research or licenses the discloser’s intellectual property (Office of Research Ancillary)
- activity in which discloser is being required to assign or waive intellectual property rights (Office of Research Ancillary)

If you request an ancillary review, you may not approve the disclosure until the ancillary review has been completed. If the ancillary reviewer disapproves the disclosure, the Level 2 reviewer must disapprove the disclosure.
Factors to Consider

1. Conflicts of Commitment

Consider whether the activity/interest or time commitment involved would conflict with the discloser’s UF role or duty of loyalty to UF. Decisions regarding time commitment are generally best made by the department chair.

*Excerpt from FL Code of Ethics (FL Statute § 112.313, 2018)*

(7) **CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.**—
...nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

2. Competition with UF

Generally, activities/interests with an entity that competes with UF are not permitted. Department chairs often have the best knowledge to determine whether a company/activity may compete with UF.

3. Business with UF

If an entity does business with UF, the employee may not be involved on either side in negotiating, purchasing, or contracting decisions between the entity and UF.

*Excerpts from FL Code of Ethics (FL Statute § 112.313, 2018)*

(3) **DOING BUSINESS WITH ONE’S AGENCY.**—No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer’s or employee’s spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer’s or employee’s spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer’s or employee’s own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision...

(7) **CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.**—

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state;...

NOTE: See the ‘General Exception’ section at the end of this guide for exceptions to a strict reading of the FL Code of Ethics.

4. UF Resources

Generally, outside activities should not involve the use of UF resources (property, space, equipment, personnel, etc.). However, UF may approve of such use in conjunction with the approval of an outside activity disclosure.
5. Confidential Information

Generally, outside activities should not involve the use of UF/UF Health patient information (including images), confidential research information, or confidential business information. Use of any patient information should be cleared through the Privacy Office. Use of any confidential research information should be cleared through the Research Compliance Office.

6. Reviewing Attached Contracts

a. **Individual Capacity:** Ensure contracts are between entity and employee in his/her personal capacity.

b. **Description:** Ensure contract language lines up with activity/interest as described by employee. Address any significant discrepancies, particularly differences in the described scope of work and the compensation. If activity as described in contract is vague, unclear, or incorrect, changes to contract and/or disclosure may be warranted.

7. Intellectual Property (IP)

a. **Research Compliance Review:** If an activity/interest may result in the employee being involved in inventing something or in pursuing IP (i.e., a patent), or if a contract includes IP language, the Research Compliance Office should review to address conflicts with UF’s IP policy.

b. **UF Property:** Generally, inventions that are created within the field/discipline in which the creator is engaged by UF, or inventions created with the use of UF resources (regardless of field/discipline), are the property of UF. Copyrightable materials (“works”) such as printed materials, audio, music, art, etc. created independently without UF resources are property of the creator. (If created with UF resources or part of UF role, such resources are property of UF.)

c. **Licensing & RFE:** If the employee is the creator of an invention/technology that is related to licensing contracts or negotiations between the entity and UF, this warrants review by the Research Compliance Office and may need a “Request for Exemption” (RFE) filed and ultimately a “Monitoring Plan” implemented. This process typically involves Research Compliance, UF Innovate (formerly the Office of Technology and Licensing [OTL]), and the Senior Associate Dean of Research Affairs.

8. Research

a. **Research Compliance Review:** Activities/interests involving research should be reviewed by the Research Compliance Office.

b. **UF Research:** If the entity is related to current or proposed research in which the employee is or will be engaged at UF, this may need a “Request for Exemption” (RFE) filed, and ultimately a “Monitoring Plan” implemented. This process typically involves Research Compliance and the Senior Associate Dean of Research Affairs.

9. Products, Services, Prescriptions, and Referrals

If the entity sells products or services for clinical care, education, or research, the following should be considered:

a. **Influence:** Is there indication or could it reasonably be concluded that the activity/interest is such that the relationship inappropriately influences the employee’s use of products, services, prescriptions, or referrals from/to this entity?
1. **Disclosures:** If there is a concern here (even with perception), risk may be mitigated by requiring the discloser to disclose the relationship to the appropriate parties before applicable products/services/prescriptions are used. Such a disclosure should be appropriately documented.

   b. **Volume:** Consider whether the disclosure warrants reviewing data to confirm whether there is an unusually high volume related to the employee’s use of products, services, prescriptions, or referrals from/to this entity.

10. **Promotional or Marketing Activity**

    Generally, participation in industry promotional or marketing activity is not permitted. Exceptions to this may be made if there is legitimate educational value to the activity. For example, speaking engagements may have legitimate educational value while simultaneously providing promotional value to an industry vendor. This may be appropriate assuming industry is not involved in influencing the speaker’s presentation content (see Speaker section), and assuming the purpose of the speaker’s participation is to provide appropriate education.

11. **Advisory Board Activities**

    Participation on appropriate advisory boards is generally permitted, assuming the other considerations outlined in this manual result in favorable conclusions. These activities typically warrant review by the Research Compliance Office due to IP and/or research implications (see IP and Research sections).

12. **Speaker/Presentation Activities**

    Speaking/presentation activities are only permitted if no industry entities will be involved in preparing, editing, or influencing the speaking or presentation content. Appropriate speaking activities should be focused on a legitimate educational, clinical, or scientific purpose.

    See FDA guidance on *Industry-Supported Scientific and Educational Activities (1997).*

13. **Legal Consulting/Expert Witness Activities**

    The Self Insurance Program (SIP) Office reviews the names of involved plaintiffs, defendants, patients, and law firms to confirm there are no conflicts of interests for legal consulting activities. Participation in legal consulting activities is generally permitted, assuming the other considerations outlined in this guide result in favorable conclusions, and assuming SIP approves.

14. **Author/Editor/Publisher/Textbooks**

    Employees who are responsible for the assignment of instructional materials such as textbooks must select such materials solely for academic reasons and not base selections on financial gains the employee, a family member, or UF may receive. If the employee or family member may benefit from the assignment of instructional materials, such materials may only be required under the conditions outlined in Regulation 1.011. For appropriate writing activities unrelated to materials assigned at UF, participation is generally permitted, assuming the other considerations unrelated to materials assigned at UF, participation is generally permitted, assuming the other considerations outlined in this guide result in favorable conclusions.

15. **Significant Compensation or Financial Interest Amount**

    Consider whether the compensation amount or amount of financial interest is significant or abnormal, such that additional review or mitigation steps are warranted. Five percent or more ownership is considered ‘material’ for financial interests.
16. General Exception - Application of FL Code of Ethics

The Florida Code of Ethics contains a general exception to a strict reading of the Code for activities/interests that would otherwise be prohibited but that do not contain actual conflicts of interest:

_Excerpt from FL Code of Ethics (FL Statute § 112.316, 2018)_

112.316 Construction.—It is not the intent of this part, nor shall it be construed, to prevent any officer or employee of a state agency or county, city, or other political subdivision of the state or any legislator or legislative employee from accepting other employment or following any pursuit which does not interfere with the full and faithful discharge by such officer, employee, legislator, or legislative employee of his or her duties to the state or the county, city, or other political subdivision of the state involved.

See the following opinions by the Florida Commission on Ethics for examples of how this exception has been applied:

- **CEO 95-18** - COUNTY PUBLIC HEALTH UNIT DISEASE SURVEILLANCE OFFICER EMPLOYED BY AND DIRECTOR OF CORPORATION CONTRACTING WITH DHRS AND WITH UNIT, AND CHAIR OF HIV DISEASE SERVICES CONSORTIUM – August 31, 1995
- **CEO 06-25** - DEPUTY SHERIFF EMPLOYED BY COMPANY CONTRACTING WITH SHERIFF'S OFFICE -- December 6, 2006
- **CEO 93-31** - COUNTY DEPARTMENT OF PUBLIC SAFETY BATTALION CHIEF EMPLOYED BY PRIVATE AMBULANCE SERVICE EMPLOYING PARAMEDICS AND EMTS SUPERVISED BY HIM IN BOTH HIS PUBLIC AND PRIVATE CAPACITIES -- October 14, 1993
- **CEO 01-12** - DEPARTMENT OF CHILDREN AND FAMILY SERVICES FAMILY SERVICES COUNSELOR EMPLOYED WITH CHILD CARE TRAINING PROVIDER – June 12, 2001
- **CEO 83-84** - D.H.R.S. PHYSICIAN AT STATE HOSPITAL OWNING ADULT CONGREGATE LIVING FACILITY WITH SPOUSE – October 27, 1983
- **CEO 98-1** - STATE FIRE MARSHAL EMPLOYEES' COMPANY PROVIDING FIRE AND LIFE SAFETY TRAINING, SEMINARS, CONSULTATIONS AND INSPECTIONS – January 22, 1998