

Conflict of Commitment Outside Professional Activities (OPA)

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DEPARTMENT CHAIRS 2-DAY WORKSHOP

SEPTEMBER 12, 2024

Key points for managing OPA

- ▶ **Submit Category I requests WELL BEFORE engaging in Category I activities as they require prior approval, at least 6 weeks ahead. (The approval process can take some time as they route all the way to the Provost for final approval and may get sent back if incorrect or missing information.)**
- ▶ **Utilize resources from [AA UC OATS page](#) (checklists, OPA consultants “Contacts for UC OATS”) – help minimize delays in the approval process**
- ▶ **As chairs, you have the approval authority to allow students to work with faculty in OPA. You CAN say no.**
- ▶ **Remind faculty to consult with the Office of Research as required.**
- ▶ **Remind faculty to complete and submit the required annual report EVEN IF if they didn't engage in outside activities. Add activities throughout the academic year rather than waiting for doing it all in the fall.**

AGENDA

- ▶ **POLLS**
- ▶ **POLICY OVERVIEW (APM 025/671 –HSCP faculty) & LEAVES (APM 700 SERIES)**
 - ▶ **Role of department chair**
- ▶ **REQUEST FOR PRIOR APPROVAL, CATEGORY I**
- ▶ **INTELLECTUAL PROPERTY/PATENTS/CONFLICT OF INTEREST – OFFICE OF RESEARCH**
- ▶ **ANNUAL REPORTING**
- ▶ **RESOURCES**
- ▶ **QUESTIONS/DISCUSSION**

Question #1

Which of these items is true:

- a) Faculty are restricted to engaging only in their university work.
- b) Faculty can work outside the university as much as they want.
- c) Faculty can work outside the university up to a set amount of days per year and as long as they seek and receive prior approval (for certain types of activities) before engaging in those activities.
- d) Faculty can do any type of outside work as long as they receive approval from their department chair.

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**Why are outside professional activities
of faculty important at UC?**

POLICY – Conflict of Commitment and Outside Activities of Faculty Members (APM 025 & APM 671)

- ▶ **Faculty members employed by UC owe their primary professional allegiance to the University and accept as their own the University's responsibilities to advance and communicate knowledge.**
- ▶ **In service of UC's goals to advance and communicate knowledge through interaction with the public, faculty have an obligation to provide, within limits, University-related public service by using their expertise to contribute to the University and/or the professions, business, the community or the public.**

UC professors fail to report outside income, shortchanging the university system

Los Angeles Times

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A review of almost 90 UC system health faculty members found that about two-thirds did not report all of their outside income. Above, the campus of UC Irvine. (Mark Boster / Los Angeles Times)

By ANNIE WALDMAN
DEC. 6, 2019 | 6 AM

For nearly two decades, Dr. Neal Hermanowicz has led the movement disorders program at UC Irvine, where he earns more than \$380,000 a year in salary and bonuses. The widely respected expert on Parkinson's and Huntington's diseases adds to his income by consulting for drug companies.

Since 2014, 11 pharmaceutical companies have paid him a total of at least \$588,000 in consulting and speaking fees and honorariums, according to federal data. For

The coronavirus may have reached Los Angeles even before China announced its outbreak

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Cases statewide »

763,436
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deaths

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POLICY – Conflict of Commitment and Outside Activities of Faculty Members (APM 025 & APM 671)

- ▶ **APM 025/671 Obligations to the University**
 - ▶ **Outside professional activities (OPA) must be undertaken in a manner consistent with the faculty member's professional obligations to UC. OPA must not conflict with the faculty member's obligations to students, colleagues or to the University as a whole. Faculty must maintain a significant presence on campus, meet classes, keep office hours, hold examinations as scheduled, be accessible to students and staff, be available to interact with University colleagues, and share service responsibilities throughout every quarter/semester of active service.**
 - ▶ **OPA, compensated or uncompensated, regardless of financial interest, are those activities that are within a faculty member's area of professional, academic expertise and that advance or communicate that expertise...**

POLICY – Conflict of Commitment and Outside Activities of Faculty Members (APM 025)

- ▶ **Faculty are responsible for complying with this policy, including:**
 - ▶ **Obtaining prior written approval for Category I activities**
 - ▶ **Submitting annual reports of all Category I and Category II activities (or lack thereof) to the department chair (in UC OATS).**
 - ▶ **Attesting to adherence to the requirements of this policy in their annual report.**
 - ▶ **Disclosing any current or prospective OPA to the department chair if in doubt as to whether there is a conflict of commitment.**
 - ▶ **Obtaining prior approval from the Department Chair before involving a student in OPA. (APM 025-6.b)**

POLICY – Conflict of Commitment and Outside Activities of Faculty Members (APM 671)

Faculty are responsible for complying with this policy, including:

Obtaining prior written approval to engage in OPA that may result in exceeding the total annual time and/or earnings thresholds

Maintaining Good Standing per the terms of the Plan that governs the faculty's appointment.

Submitting annual reports of all Cat I and II activities and compensation earned from such activities to the Department Chair

Obtaining prior written approval for Category I activities

Attesting to the adherence with the requirements of the policy in the annual report.

Maintaining running total of annual earnings, and from time spent, on all outside all outside activities.

Disclosing any current or prospective OPA to the Department Chair if in doubt as to whether there is a conflict of commitment.

Depositing all income that exceeds earnings threshold approvals into the Plan with the exception of income earned from Cat III . . .

Obtaining prior approval from the Department Chair before involving a student in OPA.

POLICY – APM 025 & APM 671

APM 025	APM 671 – members of the HSCP (no patient care/clinical in OPA, and must be in “Good Standing.”)
Time limits 39 days, AY (312 hours) 48 days, FY (384 hours) No exceptions to exceed number of days.	Time limits 21 days, FY (168 hours) Inclusive of evenings and weekends. Can request prior approval to exceed 21 days, no more than 48 days.
Compensation limits – none*	Compensation limits - \$40,000 or 40% of base salary on scale 0 for rank and step. (Systemwide scale, not step plus scale)
Leaves - May be required, e.g., teaching abroad	Leaves - Case by case
Recall faculty – this policy does not apply	Recall faculty – policy applies if they are recalled to the comp plan

** See next slide regarding faculty in the School of Veterinary Medicine.*

Background on Policy Revisions effective July 1, 2024

- ❖ **Ethics, Compliance and Audit Services (ECAS) performed a systemwide audit of foreign influence in accordance with the 2019–20 UC audit plan.**
- ❖ **Audit results were published in the *Systemwide Foreign Influence Audit Report* in February 2021.**
- ❖ **The report noted increased concern in the federal government about efforts by non-US governments to influence research conducted by US institutions of higher education.**
- ❖ **Academic Personnel and Programs (APP) charged with revising policy to support increased faculty compliance with funding agency disclosure obligations.**

Key Policy Changes effective July 1, 2024

- ❖ Clarification that participation in a non-US talent recruitment program is a Category I activity
- ❖ Clarification that an honorary, visiting, or other appointment (either compensated or uncompensated) at an outside institution is a Category I activity
- ❖ Inclusion of in-kind contributions in the definition of compensation
- ❖ Inclusion of language requiring faculty and appointees in seven non-faculty academic titles, also referred to as “Designated Other Academic Titles,” to comply with federal funding agency disclosure obligations

Designated Other Academic Titles

APM 025-14-b

Which titles?

- Agronomist Series
- Coordinator of Public Programs
- Project Scientist Series
- Specialist in Cooperative Extension Series
- Astronomer Series
- Professional Research Series
- Specialist Series

- ❖ Individuals appointed in these titles are required to comply with federal funding agency disclosure obligations re:
 - Participation in non-US talent recruitment programs
 - Accepting honorary/visiting appointments at outside institutions
- ❖ If participating in a federally funded research project
- ❖ If required to disclose per funding agency policy, grant terms & conditions, and/or federal law
- ❖ The titles above do not have reporting obligations in UC OATS

APM 675 – Veterinary Medicine Faculty

- ▶ Requires that all VM faculty participate in the Veterinary Medicine Salary Scale, 51% appt or greater
 - ▶ Faculty eligible for annual salary differential
 - ▶ Eligible faculty contribute minimum contributions as set by the Dean of VM, in consultation with the VM Faculty Executive Committee
- ▶ Days allowed for outside activities consistent with APM 025, except no clinical services or outside patient care consulting is permissible
- ▶ May retain no more than \$40,000 per fiscal year after the minimal contribution is met.
- ▶ Consult with VM Deans office for more guidance.

ROLE OF THE DEPARTMENT CHAIR

Support compliance with these policies

- ▶ Ensure faculty understand they need to request prior approval for Category I requests well in advance, at least 6 weeks, before the activity is to commence, noting the various levels of review and approval required.
- ▶ Encourage faculty to regularly enter in UC OATS the activities they are engaged in throughout the year and not just in the Fall when the annual report is due.
- ▶ Remind faculty that even if they have not engaged in OPA, completing an annual report is required by all eligible faculty.
- ▶ Ensure faculty know that they need to request prior approval from you, as department chair, before involving any students in OPA. This is also submitted in UC OATS.

Question #2

The following examples all require the faculty member to submit a leave of absence request except:

- A.** A faculty member is teaching for another university in Europe for two weeks in mid-fall quarter.
- B.** A faculty member is consulting with a governmental agency in Washington, D.C. for a month during winter quarter.
- C.** A faculty member is consulting in the Bay Area one day a week.
- D.** A faculty member has an approved vacation in South America and wants to add on a few days to consult with an organization while there.

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The following examples all require the faculty member to submit a leave of absence request except:

- A. A faculty member is teaching for another university in Europe for two weeks in mid-fall quarter.
- B. A faculty member is consulting with a governmental agency in Washington, D.C. for a month during winter quarter.
- C. **A faculty member is consulting in the Bay Area one day a week.**
- D. A faculty member has an approved vacation in South America and wants to add on a few days to consult with an organization while there.

LEAVES – APM 700

- ▶ “Academic year appointees are expected to be present from the beginning of Fall Semester/Quarter through the end of Spring Semester/Quarter. Any appointee returning after the beginning of Fall quarter/semester or leaving before the end of Spring quarter/semester should apply in advance for a leave of absence...”
- ▶ “Fiscal year appointees who render service throughout the calendar year (12 months) shall apply in advance for leaves of absence...”
- ▶ How does this apply to Outside Professional Activities:
 - ▶ APM 025:
 - ▶ AY – not eligible for vacation, generally the summer months are their own, unless they are receiving summer compensation and/or engaging in Category I activities.

Question #3

Once a faculty member's request for prior approval of a Category I is approved by the Dean, the faculty member can proceed with the activity.

- A. True**
- B. False**

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- B. False**

Categories of OPA (refer to APM for more detail)

Category I (requires prior approval before initiating activities) – most likely to create a conflict of commitment, such as:

- ▶ **TEACHING, RESEARCH, or administration of a grant outside the university**
- ▶ **Employment outside the university**
- ▶ **Assuming a founding or a co-founding role of a company**
- ▶ **Assuming an executive or managerial position outside of the university**

Categories of OPA (refer to APM for more details)

Category I continued:

- ▶ **NEW** → Current or pending acceptance of an honorary, visiting, adjunct or other institutional appointment (compensated or uncompensated) at an outside institution of higher education, research institute, or medical center affiliated with an outside institution of higher education, non-US government, or other entity.
- ▶ **NEW** → Current or pending participation in, or application to, talent recruitment programs (specifically designed to recruit science and technology professionals or students) sponsored by a government agency of a nation other than the US (non-US govt)

All Category I activities require disclosure in annual reporting.

CATEGORY I, REQUESTS FOR PRIOR APPROVAL

- ▶ Requests should be submitted well before the activity is planned to begin
 - ▶ Recommend submitting requests at least 6 weeks in advance.
 - ▶ Multiple levels of review and approval required
 - ▶ Final decision rests with the Provost.
 - ▶ Engagement in the activity is not permitted without prior approval.
- ▶ Additional information must be included with these requests (both APM 025 and 671 requests), available on the Academic Affairs website:
 - ▶ APM 025: <https://academicaffairs.ucdavis.edu/resources-and-training>
 - ▶ APM 671: <https://academicaffairs.ucdavis.edu/apm-671-resources-faqs>

Categories of OPA (refer to APM for more detail)

Category II – may be shorter term, less likely to be a conflict, such as*:

- ▶ **Additional university teaching, i.e., UNEX, continuing education by the Univ**
- ▶ **Consulting or testifying as an expert/professional witness**
- ▶ **Providing outside consulting**
- ▶ **Serving on a board of directors outside the university**
- ▶ **Providing outside consulting or compensated professional activities for entities such as Los Alamos or Lawrence Livermore Laboratories.**

These activities require disclosure in annual reporting.

*More activities listed in APM 671 for HSCP faculty.

Categories of OPA (refer to APM for more detail)

Category III – are within the course and scope of University employment. Less likely to raise conflict, such as:

- ▶ Serving on a govt or professional panel or committee or officer of a professional or scholarly society
- ▶ Reviewing manuscripts; acting in an editorial capacity
- ▶ Attending and presenting talks at univ/academic colloquia and conferences
- ▶ Developing scholarly or creative works
- ▶ Accepting honoraria for scholarly, intellectual, educational, outreach work within the course and scope of employment; and
- ▶ Receiving prizes, defined as gifts in recognition of personal achievements and not for services rendered.

These activities DO NOT require disclosure in annual reporting.*

** For SOM/SON - check with Academic Personnel Office for Schools of Health concerning reporting requirements for this category.*

CASE STUDY – Part 1

As Department Chair, one of your academic year faculty sends you an email sharing that they are planning to do some “work” for an international university over the summer.

What are some things to consider? How would you respond?

CASE STUDY – Part 2

The same academic year faculty member who is doing the work with an international university over the summer reminds you that they are starting their sabbatical leave this fall. They added that some of the summer “work” may spill into the fall, but shouldn’t be an issue since they are on sabbatical.

What are some things to consider? How would you respond?

Question #4

True or False: One of my faculty is starting a company based on technology he's created while at UC Davis. He's done everything right because he submitted a Request for Prior Approval in UC OATS.

- A. True**
- B. False**

Question #4

True or False: One of my faculty is starting a company based on technology he's created while at UC Davis. He's done everything right because he submitted a Request for Prior Approval in UC OATS.

A. True

B. False



INTELLECTUAL PROPERTY (IP) and CONFLICT OF INTEREST (COI)

Managing IP and COI Issues: Consultation with Office of Research

Some Category I activities require consultation with the Office of Research (OR).

UC Davis encourages research collaborations and engagements with industry that contribute to the University's teaching and public service mission.

If a faculty member's outside activities involve any of the following, they must engage with OR as part of their Category I prior approval request:

- ▶ Developing or Assigning Intellectual Property
- ▶ Transferring Technology
- ▶ Transferring Research Materials or Data
- ▶ Consulting for Industry
- ▶ Starting a Company

Managing IP and COI Issues: OR Resources

OR has resources to support faculty members who have questions about:

- ▶ **Industry-University Agreements**
- ▶ **Intellectual Property**
- ▶ **Transferring Technology, Research Materials, and Data**
- ▶ **Compliance**
- ▶ **Confidentiality**
- ▶ **Consulting for Industry**
- ▶ **Faculty Responsibilities to Students**
- ▶ **Starting a Company and Procuring Services**

See this page: <https://research.ucdavis.edu/industry/for-researchers/>

Managing IP and COI Issues: Contact Tech Transfer when...

Faculty must contact Tech Transfer, via email (techtransfer@ucdavis.edu), about their OPA when their OPA involves...

- ▶ Creating a startup company
- ▶ Becoming a founder/co-founder of a company
- ▶ Commercial implementation of research data
- ▶ Know-how or inventions
- ▶ Teaching/working at a foreign institution
- ▶ Using materials developed at UCD elsewhere
- ▶ Activity that may involve use of research, data, know-how, inventions, or materials associated with any UCD-managed grants or contracts.

Managing IP and COI Issues: Contact Research Compliance and Integrity when...

Faculty must contact Denise Ehlen, Executive Associate Vice Chancellor, Research Compliance and Integrity, via email (dmehlen@ucdavis.edu), about their OPA before doing *any* of the following :

- ▶ Founding/cofounding a company
- ▶ Becoming financially involved with a startup company
- ▶ Taking on OPA with an international entity

Managing IP and COI Issues: Example

A faculty member in your department comes to you. Their graduate student recently published research describing a new method developed by the faculty member and the graduate student. The faculty member was approached by a new company that wants to explore a relationship involving:

- ▶ Translation of the method for use in the company's products
- ▶ Development of a related innovation theorized in the paper
- ▶ A percentage interest in the company for the faculty member
- ▶ Research opportunities for the graduate student

What potential issues do you see?

Managing IP and COI Issues: Example

What do you do?

- ▶ Translation of the technique for use in the company's product
 - ▶ *Potential commercial use of UC Davis research. Could raise IP and grant questions.*
 - ▶ Faculty must contact Tech Transfer, via email (techtransfer@ucdavis.edu)
- ▶ Development of a related innovation theorized in the paper
 - ▶ *Potential inventions/know-how that would need to be reported and appropriately managed.*
 - ▶ Faculty must contact Tech Transfer
- ▶ A percentage interest in the company for the faculty member
 - ▶ Faculty must contact Denise Ehlen (dmehlen@ucdavis.edu) and Tech Transfer
- ▶ Research opportunities for the graduate student
 - ▶ Remember that you evaluate the appropriateness of student involvement in OPA

Question #5

Several faculty in my department shared that they have not engaged in any outside professional activities. Therefore, they do not need to submit an annual report under APM 025 or 671.

- A. True
- B. False

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A. True

B. False

ANNUAL REPORTING

- ▶ Annual reports are generally due each November of the fall quarter. (This year's call for annual reports will go out mid-to-late September.)
 - ▶ HSCP/APM 671 faculty have additional reporting requirements. Please consult with Assistant Dean Seifert.
- ▶ These reports are reviewed and approved by the department and the dean.
- ▶ Even if there was no engagement in outside activities, a report is still required attesting to this point.
- ▶ Not submitting an annual (and accurate) report could result in a violation of University policy.

Question #6

Because I am in the humanities and social sciences, OPA probably doesn't apply to the faculty in my department.

- A. True**
- B. False**

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Key reminders about OPA

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- ▶ Remind faculty to complete and submit the required annual report **EVEN IF** if they didn't engage in outside activities. Add activities throughout the academic year rather than waiting for doing it all in the fall.

Your resources

- ▶ OPA consultants ([Analysts in Dean's office](#) who can assist with these matters)
 - ▶ L&S: Katie Anderson keanders@ucdavis.edu , Jennifer Shorts jlshorts@ucdavis.edu , Jennifer Willard jnwillard@ucdavis.edu
 - ▶ SOM: Andrea Young asyoung@ucdavis.edu , Stephen Green smgreen@ucdavis.edu
 - ▶ SVM: Charlene Miller chdmiller@ucdavis.edu
 - ▶ CHECKLISTS FOR:
 - ▶ Completing Category I requests for prior approval:
<https://aadocs.ucdavis.edu/tools/oats/checklist-for-025-671.pdf>
 - ▶ Completing Annual Certification (due each fall quarter for the preceding academic yr):
<https://aadocs.ucdavis.edu/tools/oats/ac-checklist-7-21-23.pdf>
- Technical support/questions: OATS help desk – oats-help@ucdavis.edu.



QUESTIONS/DISCUSSION