CONFLICT OF INTEREST, CONFLICTS OF COMMITMENT, AND OUTSIDE ACTIVITIES

A. Purpose

This policy is intended to protect the credibility and reputation of the U.T. System, of The University of Texas-Pan American, and of members of the faculty and staff by providing a transparent system of disclosure, approval, and documentation of employee activities outside the University of Texas System that might otherwise raise concerns about conflicts of interest or conflicts of commitment. The policy also serves the purpose of ensuring compliance with State ethics laws and Regents' Rules. Finally, the policy is intended to provide the framework for rules and procedures that will clearly delineate permissible outside activities (UTS 180, Section 2).

B. Persons Affected

This policy applies to all University of Texas-Pan American faculty and administrative and professional staff.

C. Policy

The policy of The University of Texas-Pan American is the following.

1. Faculty and Staff Time

   a. Faculty Time. Members of the faculty have flexibility in using their time to prepare for teaching and engage in research and other scholarly activities. Other responsibilities, such as presenting lectures, being available to meet with students, and participating in university committees, have more rigid time demands. During the academic term in which a faculty member holds a full-time appointment, the faculty member must attend to all of his or her University duties and responsibilities (see HOP 6.5.4, Faculty Duties and Responsibilities) and meet the minimum academic workload requirements (see HOP 6.5.7, Faculty Workload), but may be permitted to engage in approved outside activities averaging a total of 11 hours per week during university time (defined in Section D), so long as the activity does not interfere with the faculty member's University duties and responsibilities, and clearly contributes to the mission of the University or provides important elements of faculty professional development related to their University duties and responsibilities. If the total time spent in outside activities during the academic term in which a faculty member holds a full-time appointment involves more than an average of 11 hours per week during normal university time, this will

require a written management plan and approval by the appropriate Vice President, which shall not be unreasonably withheld.

b. Staff Time. Members of the staff should refer to HOP 7.6.14 *Working Hours and Rest Periods* and their applicable job descriptions or appointments in order to determine work schedules. Staff members are permitted to engage in outside activities (outlined in Section 2.a.) on non-university time, so long as the activity does not reasonably appear to create a conflict of interest and the amount of time committed does not interfere with the staff member's University duties and responsibilities. All administrative and professional staff are permitted to engage in approved outside activities averaging a total of 10 hours per week during university time (defined in Section D), so long as the activity does not interfere with the staff member's University duties and responsibilities, and clearly contributes to the mission of the University or provides important elements of staff professional development related to their University duties and responsibilities. If the total time spent in outside activities involves more than an average of 10 hours per week during normal university time, this will require a written management plan and approval by the staff member's supervisor, which shall not be unreasonably withheld.

2. Outside Activities

a. Regents' Rule 30104 permits U.T. system employees to engage in outside work or activity, so long as the work or activity complies with the requirements of the Rule and does not violate State laws or U.T. System or The University of Texas-Pan American rules or policies governing the conduct of employees, including ethics standards and provisions prohibiting conflicts of interest, conflicts of commitment, and the use of State resources (Regents Rule 30104, Sec. 2; UTS 180, Sec. 4).

b. Certain outside activity is integral to the mission of The University of Texas-Pan American or provides important elements of faculty or administrative and professional staff development related to their University responsibilities. To that end, the following activities are actively encouraged and considered "pre-approved", such that the approval need not be obtained prior to engagement in the activity, as long as they do not reasonably appear to create a conflict of interest and the amount of time committed does not interfere with the employee's University duties and responsibilities.

i. Scholarly and Professional Activities.

Examples of encouraged scholarly and professional activities include (but are not limited to) the following.

a) Serving on a federal, state, or local government agency committee, panel, or commission.
b) Acting in an editorial capacity for a professional journal.
c) Reviewing journal manuscripts, book manuscripts, or grant or contract proposals.
d) Attending or providing talks or honorary lectures at scholarly and professional colloquia, other academic institutions, and conferences.
e) Developing scholarly communications in the form of books or journal articles, movies, television productions, and similar works, even when such activities result in financial gain, consistent with intellectual property and other applicable U. T. System and the University of Texas-Pan American policies and guidelines.
f) Serving as a committee member or as an officer of a professional, academic, or scholarly society or committee.

ii. Outside Employment for 9-Month Faculty during Non-Appointment Months

Outside employment during those months when a faculty member appointed on a contractual 9-month basis who is not working in any capacity at the University of Texas – Pan American (which would include teaching or conducting research) can generally be considered pre-approved when the outside employment does not reasonably appear to create a conflict of interest. However, these activities must be disclosed in accordance with Section F.2 (Disclosure), and are subject to the other provisions in this HOP, including Sections F.8 (Rescinding Approvals) and C.5 (Use of University Property). In these cases, as a means to protect the faculty member and the University, the faculty member is still encouraged to formally obtain prior approval following the process in Section F.1 (Approvals). When such outside employment reasonably appears to create a conflict of interest, prior approval is required and must be disclosed in accordance with Sections F.1 (Approvals) and F.2 (Disclosure); these activities will also be maintained in an electronic database in accordance with Section F.3 (Electronic Database)." (UTS 180, Sec. 6.1.c.ii). Faculty members appointed on a contractual 9-month basis who work during the remaining months in any capacity at the University of Texas – Pan

American (such as teaching or conducting research) shall follow the same policies as full-time faculty during the 9-month period.

c. Professional Development and Community Activities

Another category of outside activity that, when disclosed and approved, is permitted, can be encouraged, and may be performed during university time. This includes professional activities such as providing expert testimony, providing consulting services, engaging in professional/clinical practice, and serving on a board of directors, but only when such activity clearly contributes to the mission of the University of Texas-Pan American or provides important elements of professional development related to the employee's University duties and responsibilities, and the activity does not reasonably appear to create a conflict of interest nor does it interfere with the employee's University duties and responsibilities.

d. Other Outside Activities

Employees may also engage in outside activity that does not necessarily contribute to the mission of The University of Texas-Pan American or provide elements of professional development related to their University duties and responsibilities, so long as it does not reasonably appear to create a conflict of interest or interfere with the employee's University duties and responsibilities. Any such activity must take place only on non-university time, without the use of University resources, and is disclosed and approved as required by this policy.

3. Primary Responsibility. The primary responsibility of employees of the University is the accomplishment of the duties and responsibilities assigned to one's position of appointment (Regents' Rule 30104, Section 1; UTS 180, Section 3).

4. Conflicts of Interest and Conflicts of Commitment Prohibited**.** The University of Texas-Pan American employees may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the employee's duties at The University of Texas-Pan American. (Regents' Rule 30104, Sec. 3; UTS 180, Section 5).

Activities on behalf of outside entities or individuals must not interfere with a University employee's fulfillment of his/her duties and responsibilities to the

University. Such conflicts of commitment may arise regardless of the location of these activities (on or off campus), the type of outside entity (individual, for-profit, not-for-profit, or government), or the level of compensation (compensated or non-compensated.) (Regents' Rule 301014, Sec. 4; UTS 180, Section 5).

5. Use of University Property**.** The University of Texas-Pan American property may only be used for State purposes appropriate to the University's mission. (Regents' Rule 30104 Sec. 8). The use of University property for any outside activity (excluding those in Sections C.2.b.i and C.2.b.ii) must be explicitly approved in writing by the approving authority.

6. Outside Boards**.** It is recognized that employees may be asked to serve on the boards, councils or other governing or advisory bodies ("outside boards") of various business, civic, professional, social, and religious organizations, both for profit and not-for-profit, and in compensated and non-compensated positions. Such service is generally deemed to be in the best interest of the University because it broadens the experience of the individuals involved and exposes the University to a larger audience of business, civic, professional, and social leaders.

   a. Uncompensated Board Service of Direct Benefit to the U.T. System
   Regents' Rule 30104 recognizes the benefit to be derived by U.T. institutions from outside board service. After thorough consideration of the time commitment, certain service on outside boards may be deemed of sufficient benefit to the University that certain services may be performed on university time. The service: (1) must be service on a nonreligious board; (2) must be uncompensated (other than for reimbursement of usual and customary expenses); (3) requires prior approval; and (4) requires disclosure.

   b. Compensated Board Service and Service to a Religious Organization

   Service on outside boards for which an employee is compensated, and any service to a religious organization whether or not compensated, must be on the individual's own time.

      i. If the service occurs during normal office hours, the individual must use vacation time, compensatory time, or other appropriate leave while providing the service.
      ii. The service must be without cost to the U.T. System or its institutions.

iii. Service to a religious congregation that is primarily personal does not require prior approval and does not need to be disclosed, regardless of compensation. Service on the board of a religious organization that provides services that the University of Texas-Pan American provides, such as a religious hospital or academic institution, requires prior approval and must be disclosed.

iv. Compensated service on a nonreligious board requires prior approval and must be disclosed, except as noted at (c), below.

c. Exception – Board Service or Activity that Is Personal

Participation (regardless of compensation) on outside boards or activity in which the service is primarily personal rather than professional in nature and is done on one's own time is permitted without the requirement of approval or disclosure if it does not create a conflict of interest or a conflict of commitment or the appearance of a conflict of interest or commitment. Examples include board of the following nature: a municipality, local religious congregation; neighborhood association; public, private, or parochial school; political organization; social advocacy organization; youth sports or recreation leagues; affinity groups; and other similar outside boards.

7. Substantial Interest in a Business Entity

Members of the faculty and the administrative and professional staff must annually report any substantial interest the individual or an immediate family member has in a business entity that might appear to create a conflict of interest.

D. <u>Definitions</u>

1. *Administrative and Professional Staff*. Employees who have been determined to be exempt from the Fair Labor Standards Act and are, therefore, not entitled to overtime pay. It also includes employees who are not exempt from the Fair Standards Labor Act if they are authorized to execute contracts on behalf of the University or who, because of their job duties at the University have authority to exercise discretion with regard to the award of contracts or other financial transactions.

2. *Business Entity*. Any entity recognized by law through which business for profit is conducted, including a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, or trust.

3. *Compensation.* Any form of benefit including but not limited to salary, retainer, honoraria, intellectual property rights or royalties, or promised, deferred, or contingent interest. It also includes sponsored travel or reimbursement for consistency with Public Health Service regulations and UTS 175 governing conflicts of interest in research (42 CFR Sec. 50.603, definition of "significant financial interest," at (2)). It does not apply to travel that is reimbursed or sponsored by a Federal, state, or local government agency, an institution of higher education, an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education.

4. *Conflict of Commitment***.** A state in which the time or effort that a U.T. system employee devotes to an outside activity directly or significantly interferes with the employee's fulfillment of his or her institutional responsibilities or when the employee uses State property without authority in connection with the employee's outside employment, board service, or other activity (See Sec. 8, Regents' Rules 30104). Exceeding the amount of total time permitted by the U.T. System or University of Texas-Pan American policy for outside activities creates the appearance of a conflict of commitment.

5. *Conflict of Interest.* A significant outside interest of a U.T. system employee or one of the employee's immediate family members that could directly or significantly affect the employee's performance of the employee's institutional responsibilities. The proper discharge of an employee's institutional responsibilities could be directly or significantly affected if the employment, service, activity or interest: (1) might tend to influence the way the employee performs his or her institutional responsibilities, or the employee knows or should know the interest is or has been offered with the intent to influence the employee's conduct or decisions; (2) could reasonably be expected to impair the employee's judgment in performing his or her institutional responsibilities; or (3) might require or induce the employee to disclose confidential or proprietary information acquired through the performance of institutional responsibilities.

6. *Immediate Family Members***.** Includes the following:

   a. A spouse;

   b. A dependent child or stepchild or other dependent, for purposes of determining federal income tax liability during the period covered by the disclosure statement; and

c. A related or non-related, unmarried adult who resides in the same household as the individual and with whom the individual is financially interdependent as evidenced, for example, by the maintenance of a joint bank account, mortgage, or investments.

7. *Outside Board.* The board, council, or other governing or advisory body of a business, civic, professional, social, or religious organization, whether for profit or nonprofit.

8. *Outside Employment.* Any activity performed by an employee, other than fulfilling employment obligations at the U.T. System or a U.T. System institution, for which compensation is received, including distance teaching.

9. *Range of Compensation.* Includes a range of outside compensation as follows:

a. $0 - $4,999;
b. $5,000 - $9,999;
c. $10,000 - $19,999;
d. amounts between $20,000 - $100,000 by increments of $20,000; or
e. amounts above $100,000 by increments of $50,000.

If outside compensation is received as equity, the value of the compensation will be expressed as a percentage of the fully diluted value of the business entity at the time of the grant.

10. *Substantial Interest in a Business Entity.* For purposes of this policy, this means:

a. A controlling interest;
b. Ownership of more than 10 percent of the voting interest;
c. Ownership of more than $5,000 of the fair market value;
d. A direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gains; or
e. Service as an officer.

This does not include investments in mutual funds or retirement accounts, so long as the individual does not directly control the investment decisions made in those vehicles.

11. *University Time.* For faculty, this time is defined by the number of hours per week necessary for the performance of job duties, which include teaching, research, service, and patient care. For some staff this time is defined by a work day with set hours, and for other staff this time is defined as a work day with set hours plus on-call service as needed.

E. Responsibilities

Not applicable.

F. Procedures

1. Approval Requirements

   a. Approval requirements shall apply, at a minimum, to:

      i. All full-time members of the faculty employed on a 12-month or 9-month basis (for the latter, see Section C.2.b.iv above);

      ii. Part-time members of the faculty only if the activity reasonably appears to create conflict of interest;

      iii. All full-time administrative and professional staff (as defined by this policy); and

      iv. Part-time administrative and professional staff only if the activity reasonably appears to create conflict of interest.

   b. Approval is required prior to engaging in the following activities (except for the pre-approved activities noted above in Section C.2.b) for:

      i. All outside employment or other compensated activities;

      ii. All service on outside boards that are not academic or scholarly in nature (see Section C.6 above for details, including exclusions); and

      iii. any uncompensated activity that reasonably appears to create a conflict of interest or conflict of commitment.

CONFLICT OF INTEREST, CONFLICTS OF COMMITMENT, AND OUTSIDE ACTIVITIES

2. Information Required to Be Disclosed

a. Full-Time Employees. Full-time members of the faculty and full-time administrative and professional staff are required to disclose the following. When in doubt in determining whether an activity or interest should be disclosed, the individual should resolve the doubt in favor of disclosure.

i. A description of the nature and extent of all outside employment or other compensated activity;

ii. A description of the nature and extent of any outside activity, regardless of compensation, that reasonably appears to create a conflict of interest or a conflict of commitment;

iii. A description of the nature and extent of any outside (onsite or distance) teaching that is in or related to the same discipline as one's area of University of Texas-Pan American teaching responsibilities;

iv. The range of total annual compensation received from: (1) any compensated activity if it is greater than $5,000 and the activity reasonably appears to create a conflict of interest or a conflict of commitment, or (2) a single entity if the total compensation is greater than $5,000 and the activity reasonably appears to create a conflict of interest or a conflict of commitment.

v. A description of the nature and extent of all outside board service that is not academic or scholarly in nature, regardless of compensation (see Section C.6 above for details, including exclusions).

vi. A description, including the range of compensation or interest, of any substantial interest in a business entity (as defined in Section D.10 above) that reasonably appears to create a conflict of interest, which should be provided no later than 30 days after acquiring the interest;

vii. A description of gifts over $250 to the employee or his/her immediate family members, but only if they reasonably appear to create a conflict of interest. Do not include gifts received from: the employee's parent, child, sibling, grandparent, or grandchild; the employee's spouse and spouse of anyone mentioned above, or the parent, child sibling, grandparent, or grandchild of the employee's spouse.

viii. A description of the nature and extent any activity of immediate family members that reasonably appears to create a conflict of interest and a description of any substantial interest of immediate family members in a

business entity (as defined in Section D.10) that reasonably appears to create a conflict of interest, which should be provided no later than 30 days after acquiring the interest;

ix. Outside activity disclosed under HOP 4.1.3 ("Financial Conflicts of Interest in Research") need not be re-disclosed.

b. Part-time Employees

Part-time members of the faculty and part-time members of the administrative and professional staff are required to disclose the nature and extent (but not the compensation range) of any outside activity and any substantial interest in a business entity (as defined in Section D.10 above) that reasonably appears to create a conflict of interest. Part-time employees are not required by this policy to disclose for family members.

3. Electronic Database

a. Items Included in Internal UT System Electronic Database.

Disclosure of outside activity, documentation of requests for approval, and subsequent approvals shall be maintained for all full-time faculty and full-time administrative and professional staff in an electronic database that will include the following elements:

i. A description of the nature and extent of all outside employment or other compensated activity and of all outside activity, regardless of compensation level, that reasonably appears to create a conflict of interest or a conflict of commitment;

ii. The range of total annual compensation received from: (1) any compensated activity if it is greater than $5,000 and the activity reasonably appears to create a conflict of interest or a conflict of commitment, or (2) a single entity if the total compensation is greater than $5,000 and the activity reasonably appears to create a conflict of interest or a conflict of commitment.

iii. A description of the nature and extent of outside board service that is not academic or scholarly in nature, except as noted above in Section C.6;

iv. A description, including the range of compensation or interest of any substantial interest in a business entity (as defined in Section D above) that reasonably appears to create a conflict of interest;

v. A description of gifts over $250 to the individual, but only if the gift reasonably appears to create a conflict of interest, and it is not a gift from one's spouse, parent, child, sibling, grandparent, or grandchild; or from the spouse of a parent, child, sibling, grandparent, or grandchild; or from the parent, child, sibling, grandparent, or grandchild of one's spouse; and

vi. For part-time members of the faculty and part-time members of the administrative and professional staff, a description or the nature and extent of any outside activity and any substantial interest in a business entity that reasonably appears to create a conflict of interest.

b. Public Display of Information**.** Only the following information must be available on a publically accessible and searchable website.

i. The nature and extent of the activity, and the range of compensation if over $5,000, for all managed conflicts of interest or conflicts of commitment, unless deemed confidential following procedures developed in accord with Section F.7 below;

ii. All information disclosed by the Chancellor, U.T. System Executive Officers, and Presidents pursuant to Section C.4 above;

iii. Instructions for gaining access to a copy of any conflict management plan.

iv. Information regarding family members will not be posted publically.

4. Approval Authorities

The President has appointed the following individuals as the approval authorities under this policy:

a. For members of the faculty: The Department Chair and Dean

b. For Department Chairs and Program Directors: The Dean

c. For Deans: The Provost

d. For executive officers: The President, or for the President, the Executive Vice Chancellor

e. For administrative and professional staff: Their supervisor

5. Appeals

Individuals whose request for approval of outside activity is denied may request that the denying authority reconsider the decision and provide an explanation in writing. If the individual remains unsatisfied with the decision, he or she may access standard grievance procedures to the extent that they are otherwise applicable.

6. Prospect and Retrospective Approval

In rare instances, outside activity may be approved retrospectively when the individual is called upon to assist in an emergency or urgent situation where it would be impossible or unreasonable to obtain advance approval. In such cases, the activity must be fully disclosed and approval sought from the appropriate authority as soon as reasonably possible.

Some activity may also be prospectively approved, for up to one year, when an individual describes to the approving authority as fully as reasonably possible the general nature and extent of anticipated, but not confirmed, outside opportunities. In any event, whether previously approved or not, employees should ensure they notify their chair, dean, or supervisor in advance when they will be missing specific responsibilities.

7. Confidential Outside Activity

If an individual wishes to engage in an activity for which some or all of the relevant information is confidential, the approving authority may nonetheless approve the activity without requiring full written disclosure upon satisfaction that there is a compelling reason to treat the information confidentially and the activity is otherwise fully compliant with this policy and all other applicable laws and The University of Texas-Pan American and U.T. System policies.

8. Rescinding Approvals

An approving authority may rescind an approved outside activity upon receipt of information indicating that the activity is not consistent with this policy or any applicable law or The University of Texas-Pan American or U.T. System policy. The individual for

whom the activity may be rescinded shall be given notice of the information and an opportunity to respond.

9. Gifts, Grants, and Donations to the University for Salary Supplements

When The University of Texas-Pan American accepts a gift, grant, donation, or other consideration from a person that the person designates to be used as a salary supplement for an employee of the institution, the receiving entity shall analyze the gift, grant or donation for potential conflicts of interest. If a conflict of interest exists, the institution shall utilize its current processes and procedures to eliminate or manage the conflict.

10. Noncompliance

Noncompliance with this policy may subject one to discipline in accord with applicable procedures up to and including termination of employment.

11. Education and Training

The Office of Human Resources, in coordination with the Office of the Provost, will provide the necessary training to all supervisors who are responsible for approving outside activities. Newly appointed supervisors will receive the corresponding training as part the orientation process for new supervisors. Other supervisors will receive a follow-up training every two years. In addition, on an annual basis, the Office of the Provost and the Office of Business Affairs will send a memorandum to all University faculty and staff informing them of the provisions of outside commitment, conflict of interest and conflict of commitment policies, the process to be followed for submission of a request for outside activity, and a timeline for submission and approval of such requests. A copy of the corresponding HOP policies will be sent to all University employees with the corresponding memo.

12. Management Plans

Management plans must be in place for all faculty and administrative and professional staff for outside activities that may create a conflict of interest or a conflict of commitment before the activity begins. Management plans will be developed by the employee's direct supervisor in consultation with the employee, following institutional guidelines. These plans must be approved by the next immediate supervisor in the employee's chain of command and the Executive Director for Audit Compliance and

Consulting Services, and will be stored in a central location designated by the Executive Director for Audit Compliance and Consulting Services.

13. Relevant System Policies, Procedures, and Forms

    a. Board of Regents' Rule 30104, Conflict of Interest, Conflict of Commitment, and Outside Activities
    b. Board of Regents' Rule 60306, Use of University Resources
    c. UTS 123, Policy on Service on Outside Boards
    d. UTS 134, Code of Ethics for Financial Officers and Employees
    e. UTS 175, Disclosure of Significant Financial Interests and Management and Reporting of Financial Conflicts of Interest in Research
    f. UTS 180, Conflicts of Interest, Conflicts of Commitment, and Outside Activities

G. Review

The Divisional Heads for this policy are the Provost/Vice President for Academic Affairs and the Vice President for Business Affairs, and this policy shall be reviewed every five years or sooner if necessary by the following Stakeholders:

1. Vice Provost for Faculty Affairs – Senior Reviewer
2. Assistant Vice President of Business Affairs for Human Resources – Senior Reviewer
3. Director of Compliance Support Services
4. Academic Affairs Executive Team
5. Faculty Senate Chair
6. Staff Senate Chair