

UNIVERSITY OF KENTUCKY  <b>ADMINISTRATIVE REGULATIONS</b>	IDENTIFICATION <b>AR 3:9</b> <i>(Formerly, AR II-1.1-1)</i>	PAGE 1
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## CONSULTING AND OTHER OVERLOAD EMPLOYMENT

### I. Faculty Consulting and Other Overload Employment Outside the University

#### A. University Policy

The University has an obligation to encourage its faculty to assist in the transfer of knowledge from the University into the general community. It recognizes that the effectiveness of its academic programs can be enriched by appropriate faculty involvement with the realities of social, economic, and technologic activities outside the University. Faculty members are uniquely qualified to assist in meeting a variety of societal needs by way of limited consulting activity. Personal participation in professionally relevant consulting activities should enhance a faculty member's competence as a teacher and a researcher.

With appropriate prior administrative approval, a faculty member employed on a full time 9, 10, 11 or 12 month basis may render professional consulting services in the public interest to an individual association, governmental agency, business, or others. Such consulting activities, whether compensated or not, however, should not interfere with the fundamental responsibility of a faculty member to meet regularly assigned duties and obligations to teaching, research and service, including being regularly available to students and colleagues, which are normally expected of a full-time faculty member and for which the faculty member receives compensation from the University. The dean or president of a college, with the approval of the chancellor/vice president of the affected chancellor/vice president sector, has the authority to limit external consulting and other overload employment for faculty in that college to less than the maximum extent when such limitation is necessary to meet the college's commitments to instruction, research, and service.

At all times while on full-time or part-time appointment, during either an assignment period or a non-assignment period, faculty members must avoid any situations in which their involvement may actually conflict, or appear to conflict, with their University duties and responsibilities. While it is not possible to anticipate every factual situation which might give rise to a conflict of interest, such a conflict of interest does arise within the meaning of this regulation when a faculty member represents the legal interests of another party against the University or when a faculty member engages in litigation on behalf of another party against the University. A conflict of interest also may arise in a case of a potentially patentable invention or discovery (see AR II-1.1-3 for a statement of the University's intellectual properties policy and guidelines for determining the interests of the University and a member of its staff). Interpretations as to conflicts of interest in particular factual situations are to be made by the President of the University with the proviso that an adverse decision can be appealed to the Hearing Committee of the Board of Trustees.

“The above principles apply to all faculty members during the period of their active full-time employment by the University. Any non-assignment period during May 16-August 15 is/are excluded for those faculty members employed on a nine-month (academic year) assignment basis. Similarly, any non-assignment period is excluded for faculty members on a ten-month or eleven-month assignment basis. Additionally, any authorized annual leave or vacation period is excluded for those faculty members employed on a nine month (academic year) assignment basis. The assignment period will determine the number of days that a faculty member may consult (See section B III). Regardless of the assignment period, faculty who plan to consult or to undertake employment outside the University must complete Form F (illustrated at the end of this administrative regulation). Form F must be completed before a faculty member undertakes any consulting or outside employment. The information provided by the faculty member on Form F will be evaluated to ensure that there are no actual or potential conflicts of interest during the nine-month, ten-month, eleven-month, or twelve-month assignment period and also during any non-assignment period, authorized leave, or vacation period. Professional services covered under University-enacted professional service plans are excluded from this approval process.”

#### B. Approval Procedure

The variety of outside consulting or employment situations and the potential of such for detracting from a faculty member's regular University activities, for lacking professional relevance to the faculty member's field, or for constituting a conflict of interest for the faculty member demand a standard procedure for review and approval.

The viability of this policy depends upon the manner in which faculty members exercise this opportunity for enrichment of the academic program of the University. The following guidelines and procedures are set forth to aid in the interpretation of the policy for professional employment, consulting or professional practice. In general, any outside employment demanding more than purely spare-time effort must be substantially justified in terms of the contribution its performance can bring to the faculty member's pursuit of teaching, research, and service. The basic responsibility for determining the appropriateness of any outside employment rests with the personal and professional integrity of the individual faculty member.

When desiring to engage in such activities, a faculty member must make a formal proposal in writing to the concerned department or division chairperson using a copy of Form F (illustrated at the end of this administrative regulation). Since approval shall not be granted for blanket authorization to consult or engage in professional practice, a proposal should be specific. Such a proposal shall indicate the nature of the work to be performed, the estimated amount of time involved, the duration of the assignment, and the scale of compensation if any. The department or division chairperson's recommendation on the proposal shall be forwarded to the appropriate college dean or president whose recommendation, in turn, normally shall be forwarded to the chancellor/vice president of the concerned sector for final action. These proposals shall be made a matter of record by the chancellor/vice president who shall transmit periodic reports to the President and to the Board of Trustees.

In cases where urgency can be demonstrated relative to the consideration of proposals for consulting and other overload employment, chairpersons of departments and divisions and deans and the President of Lexington Community College should be sensitive and responsive to the need for prompt action. In such a case, upon receipt of the faculty member's proposal and the department or division chairperson's recommendation, the dean or president of the college shall approve or disapprove the proposal and report the resulting action to the faculty member, department or division chairperson, and chancellor/vice president of the sector.

Whenever a proposal by a faculty member is disapproved by an official of the University, it is the obligation of that official to provide the faculty member, upon request, with an oral statement of the reason for the decision. The faculty member also is entitled to appeal such a disapproval through established channels.

Faculty members engaged in consulting and other overload activities must not use the name of the University of Kentucky in such a manner as to suggest institutional endorsement or support of a non-University enterprise.

Requests for outside employment that involve significant use of other University personnel, facilities, or equipment should be performed on a contractual basis with the University rather than on an individual consulting basis.

A faculty member wishing to engage in continuing consulting or other outside employment must resubmit a request annually.

The following professional activities are subject to the guidelines in Section I.A. but are excluded from the approval requirements in Section I.A. and discussed in this section so long as any such activity occurs on not more than four separate occasions per year and does not result in compensation in excess of one thousand dollars (\$1,000) per occasion:

1. Occasional service on review panels, site visit teams, professional committees or boards, and related voluntary professional services;
2. Occasional lectures or seminars at other institutions;
3. Occasional telephone or office consultation; and
4. Occasional reading and evaluation of manuscripts, writing reviews, serving as expert witness, rendering professional opinions in depositions, etc.

Faculty members engaged in consulting and other overload employment activities must assure that they do not have a conflict of interest (See AR II-4.0-4) and that they adhere to the policy on Ethical Standards and Misconduct in Research (GR - X) and (AR II-4.0-2).

## II. Special Considerations Regarding Faculty Consulting and Other Overload Assignment Within the University

The University recognizes that there are occasional circumstances when a faculty member may be the most appropriate person to undertake University assignments which are beyond the scope of that individual's normal departmental, college, and University-wide responsibilities. Examples include the conducting of continuing education classes, the grading of correspondence courses, and participating in various types of sponsored activities for which the basic responsibility lies outside the faculty member's educational unit. Reasonable compensation above the individual's regular University contract shall be negotiated between the Dean and faculty member and approved by the Chancellor/Vice President. The local nature of the circumstances, the relative closeness of participants, the potential impingement on the individual's regular duties, market factors, and the potential for conflicts of interest shall be considered.

Additional compensation for internal overload assignments (e.g., continuing education classes, including extension and evening programs classes, and grading in correspondence courses) may be governed by specific fee schedules. Such fee schedules must be approved by the appropriate University authority. In the absence of such fee schedules per diem-compensation may not exceed 1/195, 1/217, 1/238, or 1/260 on a nine-month, ten-month, eleven-month, or twelve-month assignment basis, respectively, of the individual's regular assignment period salary for the pertinent fiscal year unless expressly approved otherwise in advance by the chancellor/vice president of the affected sector. The total of all internal overload compensation during a regular assignment period may not exceed 39/195, 39/217, 43/238, or 48/260 on a nine-month, ten-month, eleven-month, or twelve-month assignment basis, respectively, of the individual's pertinent regular assignment period salary unless specifically approved in advance by the Chancellor/Vice President of the affected area.

Internal Overload Limits				
	9 month assignment	10 month assignment	11 month assignment	12 month assignment
Pier diem compensation shall not exceed	1/195	1/217	1/238	1/260
Total internal overload compensation shall not exceed	39/195	39/217	43/238	48/260

Regardless of whether an approved fee schedule or an appropriate per diem compensation is used, prior administrative approval of a proposal for an internal overload assignment (i.e., an assignment such as one of those mentioned in the two preceding paragraphs) is still required. The approval procedure for internal overload assignments shall be identical with the previously described outside employment approval procedure except for the above special constraints.

If an internal overload assignment is to be compensated from sponsored project funds, the faculty member's proposal for overload employment shall be forwarded sequentially to the department or division chairperson, dean or president of the college, principal investigator for

the sponsored project, and the Director of the Office of Sponsored Projects Administration for recommendations on approval prior to final action by the chancellor/vice president of the affected sector. In accordance with OMB Circular A-21, Cost Principles for Educational Institutions, sections J.8.d(1) entitled salary rates for Academic Year, and J.8.d.(2)(a) entitled Periods of Outside the Academic Year, in no event will charges to sponsored agreements irrespective of the basis of computation, exceed the proportionate share of the base salary for that period.

III. Limitation on Overall Combination of Consulting and Other Overload Employment During a Regular Assignment Period or a Summer Assignment Period

Limits on Overall Combination of Consulting and other Overload During a Regular Assignment Period				
	9 month assignment (No vacation allowance and covers period August 16 - May 15)	10 month assignment (1 month vacation allowance)	11 month assignment (1 month vacation allowance)	12 month assignment (1 month vacation allowance)
Maximum days for consulting and overload	39 days	39 days	43 days	48 days

A faculty member regularly employed full-time on a nine-month assignment basis, which includes no vacation allowance, may be permitted to engage in external consulting and/or other overload activities to a maximum extent of 39 days during a regular assignment period which covers August 16 of one year through May 15 of the following year.

A faculty member regularly employed full-time on a ten-month assignment basis, which includes a one-month vacation allowance, may be permitted to engage in external consulting and/or other overload employment to a maximum extent of 39 days during a regular assignment period.

A faculty member regularly employed full-time on an eleven-month assignment basis, which includes a one-month vacation allowance, may be permitted to engage in external consulting and/or other overload employment to a maximum extent of 43 days during a regular assignment period.

A faculty member regularly employed full-time on a twelve-month assignment basis, which includes a one-month vacation allowance, may be permitted to engage in external consulting and/or other overload activities to a maximum extent of 48 days during a twelve-month period which covers May 16 of one year through May 15 of the following year.

A faculty member regularly employed on a nine-month, ten-month, or eleven-month assignment basis may be permitted to engage in part-time or full-time University employment during a period not included in a regular assignment period. Employment during an interim period between regular assignment periods shall not be considered as internal overload employment but shall be subject to established guidelines and constraints (see AR II-1.1-7).

With appropriate prior approval, a faculty member regularly employed on an assignment basis of less than twelve months may engage in external overload activities up to an average of one day per week while on full-time University summer assignment.

#### IV. Staff Consulting Outside the University, Special Assignment and Overload Employment Within the University

The University recognizes that exempt staff employees may enrich the University by appropriate involvement in limited external consulting activity. Personal participation in professionally relevant consulting activities may also enhance the staff member's competence in the respective professional or administrative role.

An exempt staff member employed on a full-time basis may render professional consulting services in the public interest to an individual association, government agency, business, or others. Such consulting activities, however, should not interfere with the fundamental responsibility of the individual to meet regularly assigned duties. Exempt staff engaged in consulting and overload activities are expected to adhere to the conflict of interest statements spelled out in State Law and University Regulations. Consulting shall be done only on vacation leave, weekends, evenings or times when the employee is not expected to be carrying out responsibilities of the position held (e.g., University holidays).

The University recognizes there may be instances where an exempt staff employee may be the most appropriate person to undertake a specialized internal assignment that would otherwise necessitate employment of an additional individual. In an instance where additional compensation is requested for such a specialized assignment, all following criteria must be strictly satisfied, with the exception that Criteria 2 and 4 need not be met where the assignment involves the teaching of a night or extension class or the preparation and/or grading of correspondence class materials.

1. The assignment is clearly beyond the scope of the specified duties (as set forth in the job description of the employee's regular position) that are performed during normal and usual working hours.

2. The assignment normally is outside the organizational unit(s) in which the employee is regularly assigned. Only with prior written approval of the appropriate chancellor/vice president may an exempt employee teach a University of Kentucky course for academic credit within the organizational unit to which the employee is regularly assigned.

3. Except when an exempt employee teaches a University of Kentucky course for academic credit, the assignment to be performed is totally separate and apart from

normal and usual working hours. (The period normally excluded is 8:00 a.m. through 5:00 p.m. Staff who teach during usual working hours shall adjust the usual working hours to make up the time. Also, a staff employee shall not teach more than one course during usual working hours.)

4. Except when an exempt employee teaches a University of Kentucky course for academic credit, the assignment is of special and infrequent nature thereby making it unfeasible to hire a temporary employee to perform the assignment.

5. The assignment clearly serves the best interests of the University.

6. In no case is any such assignment to be undertaken without the prior express approval of the dean/president of the college or the head of the administrative/operating division under whom the employee is regularly administratively responsible and the dean/president of the college or the head of the administrative/operating division who will be administratively responsible for the employee's overload assignment. If the internal overload assignment is to be compensated from sponsored project funds, approvals from the principal investigator for the sponsored project and the Director of the Office of Sponsored Projects Administration also must be obtained prior to final approval by the dean/president of the college or the head of the administrative/operating division who will be administratively responsible for the employee's overload assignment. A copy of Form S (illustrated at the end of this administrative regulation) shall be used for requesting and obtaining approvals for any such internal overload assignment.

No additional compensation in lieu of vacation will be permitted.

Any compensation for such services will be at an hourly rate unless otherwise covered by a fee schedule which has been approved by the chancellor/vice president of the affected sector. No hourly rate compensation shall exceed that derived by dividing the employee's basic annual salary by 2080. The employee's fringe benefits shall not be affected by monies paid for overload assignments.

The total compensation an employee receives under this policy during a fiscal year may not exceed 20% of the employee's basic annual salary for that year.