

## Disclosure of Outside Employment/Activity/Consulting for IFAS Faculty and Staff

[http://imm.ifas.ufl.edu/6\\_30/630-1-12.htm](http://imm.ifas.ufl.edu/6_30/630-1-12.htm)

<http://regulations.ufl.edu/wp-content/uploads/2012/09/1011.pdf>

### Topics for discussion:

1. Role of Unit Leaders
2. Does a 9-month contract versus a 12-month contract make a difference?
3. Current 52-day limit in IFAS Guidelines
4. Future UFOLIO process

### Case Studies for UF/IFAS Administrative Council

1. Sam Gobbler is a faculty member at an REC in south Florida. He is tenured in Wildlife Ecology & Conservation. His assignment is to develop wildlife management plans compatible with BMPs. He has a business, Osceola Outfitters, LLC, guiding photo safaris for Osceola turkeys in the South Florida Everglades. These activities take place on the weekends. There is no use of university facilities, equipment, or services. This activity is not part of Sam's regular salaried assignment and is not in conflict with his duties and responsibilities to the University.
  - Does Sam need to disclose this activity since payments go to the LLC, not him directly?
  - Does he need to disclose each safari trip that he books?
  - Would Sam be allowed, as part of his LLC, to provide consulting services to Florida residents regarding wildlife management in addition to guiding photo safaris?
  - Would Sam be allowed, as part of his LLC, to provide consulting services to non-Florida residents regarding wildlife management in addition to guiding photo safaris?
  - Does he need to disclose each consultation?

*Yes, Sam needs to disclose the fact that he owns an LLC. He does not need to disclose each safari trip since he has disclosed the LLC and the safari trips are not a conflict of interest. Neither he nor his LLC would be allowed to provide wildlife management consulting in Florida, but may do so outside the state. He would need to disclose each consultation to make sure there is no conflict of interest.*

2. Joan Green is a Family and Consumer Science faculty member. Her subject matter is Food and Nutrition. She gets a call from Loophole and Associates. She learns that a local food catering service, "Good Food", has had the contract to provide public school lunches for the last year as part of the privatization effort in Adams County. Recently, the county government has brought a legal complaint against Good Food. In the complaint, Adams

County argues that the meals are not as nutritious as they should be. Mr. Loophole wants to hire Joan to testify in a hearing on behalf of Good Foods.

- Is there any concern here?
- Are both Adams County and Good Food clients of the University?
- What would you advise Joan to do?

*There are several concerns.*

*(1) Our information is open to the public. When faculty members are asked “for their input,” this means Expert Witness whether these terms are used or not. If a law firm is involved, ask to be subpoenaed as a “friend of the court” and the information will be equally available to both parties. Again, this info must be available to BOTH. Sometimes a law firm will ask to “retain” a faculty member just for information. Again, the answer is still no.*

*(2) This is within the State of Florida and IFAS policy is that faculty do not serve as expert witnesses in the State of Florida. Jean should fill out the disclosure form. The Deans’ offices will be able to advise regarding whether an activity would be allowed or not.*

3. Cornell University contacts Jenny Springfield. Jenny is a leading authority on a certain fungus that affects grape vineyards. Cornell invites Jenny to come to Ithaca and speak at a statewide meeting sponsored by the University. They will cover travel expenses and pay her a \$300 honorarium.

- Should Jenny fill out an outside activity request form?
- Is this work time?
- How does this change if she does not receive an honorarium?
- How does the situation change, if any, if the call had come from a commercial chemical company in San Francisco?
- How does the situation change if she is a 9-month faculty member and it is during the summer? Or simply during the academic year?

*This type of activity is encouraged among our Faculty. She should still fill out the disclosure form. Disclosure would protect Jenny if a complaint was made.*

*This trip would be work time. This is another reason to disclose the activity. However, if Jenny decides to spend an extra few days in the Catskill Mountains, she must take annual leave.*

*How does the situation change, if any, if the call had come from a commercial chemical company in San Francisco? This changes the situation significantly. What was a collegial exchange has now shifted to a business deal. This would be more appropriately called a consulting request. As a result, it should be disclosed. The approval will protect the interests of both the University and the faculty member.*

*A 9-month faculty member would not take vacation if the activity was in the summer, but either activity could occur. If the activity was during the academic year, the unit leader would have to approve use of work time. Probably yes for the Cornell event but no for the commercial chemical company invitation.*

4. Elizabeth Smith is a faculty member in Environmental Horticulture who specializes in landscape issues. A friend of hers owns a landscaping business named “Greenway.” The

town of Orange Springs has a maintenance contract with Greenway and has filed a complaint. In particular, the town has concerns that Greenway is using chemical pesticides and believes that they should only use organic means to fight pests. An amicable resolution could not be reached and Orange Springs has filed a complaint against Greenway. Elizabeth's friend wants her to testify on the behalf of Greenway.

- What would you advise Elizabeth to do?
- Should she complete the request form?
- What do you think the IFAS Deans will ask?

*This is a legal proceeding within the State of Florida, thus Elizabeth should not testify unless subpoenaed as the friend of the court. She should fill out the disclosure form and get approval before proceeding.*

*Both parties are entitled to the University's services. As a result, there is a clear conflict of interest. Regardless of what Elizabeth may think, she would be "wearing the University cap." As a result, her testimony should be based on data only and provided for both sides.*

5. Mary Lamb is a faculty member in Entomology. She and her family have five sheep in the meadow behind their home. Based on her love of animals, she decides to increase the number to 300. She plans to work with the sheep during late afternoons and weekends.

- Should she fill out an outside activities request?
- What if she increases the number to 600 and hires a part-time manager?
- What if she was a faculty member in Animal Sciences?
- What if she sold the sheep to Animal Sciences?

*The general answer to whether one should fill out the form is going to be "yes." When in doubt, this is the best course of action.*

*Taking care of 300 sheep is more than likely going to constitute a conflict of commitment (i.e., time). At this point, the sheep become a part-time job.*

*If there is a manager, the concern is greatly reduced. The manager would take care of the day-to-day issues. However, if Mary regularly fields calls at work, etc., it could become a concern. The goal is to keep University employment, resources, etc. separate from a private business interest.*

*As a faculty member in Animal Sciences, special duty must be taken to keep the activity separate. Selling animals to the department without an approved process through UF purchasing would be against university policy and state law.*

*Florida Statutes 112.313(7) states "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; 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.”*

6. John Etheridge is a faculty member in Food Science and Human Nutrition. He and his wife decide to start a business, “Smoothie World,” on University Avenue. John only works there occasionally on weekend nights. It is a great place for students. Rather than meet with his students on campus, John regularly meets with his undergraduate and graduate students at Smoothie World. His students even get a discount. It becomes “THE” place for the smoothie aficionado.

- Should John fill out the form?
- What if he worked in Soil and Water Sciences or Agronomy?
- Are there other issues involved here beyond outside activity?

*Fill out the disclosure form; however, a conflict of interest is present so the activity would most likely be denied unless he could demonstrate that he is entirely arms-length. There would be no difference if he was in another department. John would need to decide whether he wanted to be a faculty member or a restaurateur. The line between faculty member and “Mr. Smoothie” would be virtually impossible to defend regarding student issues. Was the poor grade a result of not going to Smoothie World? Was the good grade a result of going to Smoothie World?*

7. Dewey Teach is a faculty member located at a Research and Education Center. His tenure department is Environmental Horticulture. The local Community College wishes to offer a class on “Home Horticulture” and wishes to hire Dr. Teach to be the instructor for the class. The class will be on Tuesday nights and Saturday afternoons for 6 weeks.

- Can Dr. Teach do this? Why or why not?
- What if he was located on campus?
- What if he was in a TEAMS position?
- What if he wanted to teach an archery class?

*Dewey cannot teach in this way. IFAS faculty and TEAMS are employed on a full-time basis. We have the capacity in IFAS to teach a University class at a community college. Such an assignment could benefit both the faculty member and the University. It makes no difference if the person is on campus or not.*

*Teaching takes preparation time and resources. To allow this would be providing University resources to the community college without commensurate investment. The OA disclosure must also include any contract signed by the faculty or staff member, to ensure that UF is not waiving its intellectual property rights – waivers of this nature can only be approved by the Vice President for Research (i.e., Dr. Norton’s) office.*

*However, if Dewey were in a TEAMS position, this could be approved as a part-time job. If the class is not related to one's University responsibilities (such as archery, swimming, etc.) it is quite likely that the activity would be allowed for faculty and TEAMS as well.*

8. Bobby Bovine has an approved outside activity. He and his brother have a small cattle and hay business that they operate on a part time basis. Bobby is a faculty member in Food and Resource Economics.

An Extension Agent contacts Bobby for information. Specifically, John Brown, a local farmer, is considering retiring and wonders what recommendations the Extension Service might make on the viability of selling some cattle (approximately 30 head) at this time. The agent asks Bobby for his input. Bobby discusses the pros and cons of such a decision with the agent. After the conversation with the agent, Bobby calls up his brother, Jeff, and tells him Mr. Brown is considering selling some cattle. His brother has known Mr. Brown for some time. Mr. Brown's wife has been battling cancer and he is not surprised about Mr. Brown's consideration to sell.

Jeff contacts Mr. Brown immediately and offers to buy his herd. Jeff tells Mr. Brown that doing so will keep him from having to worry about an auction. He can come over the next day and start loading up the cattle. Mr. Brown agrees on a price and the deal is made.

After the cattle are gone, Mr. Brown's neighbor comes over to visit. He too is in the cattle business and asks when the cattle were sold. Mr. Brown advises that the cattle were sold to the Bovine Brothers. The neighbor also knows the Bovine Brothers and suspects foul play. He calls the Extension Agent and casually suggests he might want to sell. The agent tells him that he typically will call a specialist for input on such a decision; he identifies Dr. Bovine as his usual contact. The neighbor thanks him and says he will think about his decision.

The neighbor calls you, the Department Chair, the next day and complains about what he describes as a foul deal.

- What do you think?
- What probably will happen?

*The fact that he has an approved outside activity does not absolve Bobby from conducting his activities in an ethical manner. More than likely, Bobby will be disciplined (possibly dismissed) for an ethics violation. These facts show that he used information obtained through his faculty position to benefit his private business.*

9. Dr. Jamie Smith is a professor in Agricultural and Biological Engineering on a 9-month contract. She has several grants through NSF, NIH, and NIFA. She is planning to spend her summer working in labs in two countries, China and Iran, so that she can collaborate with researchers there.

- Is this an outside activity, since it is during the summer for a 9-month contract?
- What concerns would you have as a unit leader? Who should you consult with?
- What if she was on a 12-month contract instead?

*It depends. If NSF, NIH, USDA-NIFA and/or the foreign entities are supporting all expenses through a sponsored agreement with UF, it is not an OA. If, however, entities are supporting the activities outside of a sponsored agreement (i.e., direct to the faculty member), these activities must be disclosed and vetted before the travel occurs. As a unit leader, you should be concerned about whether the collaborators are above board, whether the contract includes waiver of intellectual property (which must be approved by the VP for Research), and export control restrictions. OFAC (US Dept of Treasury) maintains a comprehensive sanctions program against Iran. We encourage a proactive approach in which you contact Benita Bannis, who manages our IFAS International Support Team, in advance of OA disclosure.*

*The summer work overseas is still an outside activity regardless of a 9-month or 12-month assignment. Dr. Smith has continuous employment with UF.*

*The unit leader should be concerned about faculty partnering with countries and universities that have a less-than-friendly relationship with the US government. The leader should look for State Dept. warnings about relationships with said countries or universities, guidance from upper UF administration about UF's ability to develop a relationship with these institutions (or not), and specific warnings or denials regarding particular institutions that UF has deemed off-limits for collaborative work. This information can be obtained from the IFAS Dean for Research Office.*

*Teaching takes preparation time and resources. To allow this would be providing University resources to the foreign university without commensurate investment. The OA disclosure must also include any contract signed by the faculty or staff member, to ensure that UF is not waiving its intellectual property rights – waivers of this nature can only be approved by the Vice President for Research (i.e., Dr. Norton's) office.*

10. Dr. Rodney Globetrotter is a professor in Microbiology and Cell Science and is on a 12-month contract. He is being asked to serve as a "Scholar in Residence" for 8 weeks during the summer in Belgium, which means that he will teach classes there and advise students.

- Would you approve it? What questions would you ask?
- What if he had another outside activity that lasted an additional 8 weeks?
- What if it was at an institution in Cuba?

*This would not be approved in the normal course of an outside activity. Eight weeks away while on contract is too long without special approval for an "academic leave of absence," or a mini-sabbatical. If the work in Belgium is consistent with Dr. Globetrotter's assignment and if it benefits UF and my department, IFAS HR and the SVP's office could be consulted to get the leave of absence approved. Would not likely approve an additional 8 weeks; Dr. Globetrotter works for UF and he should spend the majority of his time there.*

*A request for a Cuban assignment would be very heavily scrutinized but it could be possible under the right set of conditions. Since the Cuba embargo remains in place, this would raise export control concerns. For approval, all travelers must complete and submit the "UF Travel to*

*Cuba: Acknowledgement of Compliance with Regulations” form before traveling. We encourage a proactive approach in which you contact Benita Bannis, who manages our IFAS International Support Team, in advance of OA disclosure.*