

Doc. T96-047, as amended

Passed by the Board of Trustees on April 2, 1997

**UNIVERSITY OF MASSACHUSETTS AMHERST AND BOSTON
POLICY ON FACULTY CONSULTING AND OUTSIDE ACTIVITIES**

Faculty members are expected to devote to the University their primary professional loyalty and to direct to the University their time and energy. As they are considered "special state employees" for purposes of the Massachusetts law governing the conduct of public officials and employees (Massachusetts General Laws Ch. 268A), however, they are permitted to engage in limited activities outside of the University during normal working hours, provided such outside activities do not interfere with their primary obligations. The University recognizes that outside activities can be of value to faculty and the University. This Policy is intended to further the mission of the University and to enrich the experiences of the faculty by facilitating appropriately limited outside activities for faculty.

I. DEFINITIONS

As used in this Policy, the following words shall have the following meanings:

- A. Academic Week – The period of Monday through Friday in each week during the academic year.
- B. Outside Activities – Non-academic activities undertaken by a Faculty Member in his or her area of expertise in association with individuals or entities outside the University. Such activities include for example, working as an employee or consultant, or serving as an executive, trustee or director for a company or non-profit organization. Such activities do not include, for example, short-term academic activities undertaken for professional development, such as lectures, participation on governmental or professional society advisory panels or scholarly events, or membership on editorial boards.
- C. CVIP – The University Office of Commercial Ventures and Intellectual Property.
- D. Faculty Member – A full-time or part-time employee of the University whose principal title is Lecturer, Instructor, Assistant Professor, Associate Professor, or Professor, or any other University employee whose principal duties consist of teaching and conducting academic research.
- E. Vice Chancellor for Research – The Vice Chancellor for Research at each campus, or where no such position exists, the Provost (or their designees).

II. POLICY

A. Scope of Policy

This Policy applies only to Faculty Members.

B. Outside Activities Permitted

The University ordinarily permits full-time Faculty Members to devote the equivalent of one day within the Academic Week to the performance of Outside Activities. The University ordinarily does not place a specific limit on the amount of time that part-time Faculty Members may devote to the performance of Outside Activities.

C. Restrictions

1. Conflict of Commitment – The primary commitment of any Faculty Member is to the University. Although this Policy permits Faculty Members to perform Outside Activities for one day within the Academic Week, the time and effort devoted by any Faculty Member to Outside Activities may not interfere with his or her professional commitment to the University. Therefore, in order to monitor such conflicts of commitment, all Faculty Members must receive approval from their Department Chairs before commencing any Outside Activity.
2. Use of Students – Although involvement of students in the Outside Activities of Faculty Members under certain circumstances may enrich the students' educational experience, such involvement has the potential to create a conflict of interest when a Faculty Member has a role in supervising a student's research, classes, or graduate teaching work. Therefore, involvement of a student in the Outside Activities of a faculty member who has any role with respect to the academic progress of the student may only be undertaken after disclosure to and approval of the Department Chair. The Department Chair shall promptly inform the Vice Chancellor for Research of all such approvals.
3. Use of University Resources – Faculty Members may not perform Outside Activities with significant use of University facilities and equipment, unless the Faculty Member (i) receives advance written approval of the proposed use from the Department Chair, (ii) academic uses of such facilities and equipment have priority, and (iii) the Faculty Member reimburses the University for the fair market value of such use (as actually charged by the University to other outside users or, in the absence of such documentation, as determined by the Vice Chancellor for Research). The Department Chair shall promptly inform the Vice Chancellor for Research of all such approvals. Use of library facilities, facilities available to the general public, and occasional use of office equipment and office staff will not ordinarily be considered significant use of University facilities and equipment in connection with Outside Activities. Faculty Members are prohibited from using University funds and University-administered funds in connection with Outside Activities. The Vice Chancellor for Research retains authority to overrule departmental approvals for significant use of University resources in connection with an Outside Activity.

4. Activities Involving a Conflict of Interest – In the event a Faculty Member is considering undertaking an Outside Activity that poses an actual or potential Conflict of Interest, as defined by the University Policy on Conflicts of Interest Relating to Intellectual Property and Commercial Ventures, the Faculty Member should review and comply with that Policy.

In addition, no member of the faculty shall accept or retain employment which would bring him as an expert, or in any other capacity, into conflict with the interests of the University or the Commonwealth. If in the opinion of the faculty member, proposed employment might involve such conflict, he/she shall disclose the relevant facts to his/her department chair and dean.

5. Use of University Name – The name of the University shall not be used in relation to any Outside Activities except to describe the credentials of a Faculty Member and as otherwise permitted under written University policy.

D. Administrative Procedures

1. Disclosure and Approval of Outside Activities – Before the commencement of any Outside Activity subject to this Policy, the University requires a Faculty Member to obtain all necessary approvals (under Section II.C.) from his or her Department Chair. The University shall make available appropriate forms. The University also requires prompt disclosure and approval of material changes in previously disclosed Outside Activities. Each Department Chair shall periodically provide to the applicable Dean a semiannual report on the Outside Activities of Faculty Members within that department, including a description of (i) uses of University facilities and equipment for Outside Activities, together with charges for that use, and (ii) use of students in Outside Activities. The Deans shall provide these reports to the Vice Chancellor for Research and the Director of the University Office for Commercial Ventures and Intellectual Property. The Vice Chancellor for Research may forward these reports to the Conflicts Committee. The applicable Dean and the Vice Chancellor for Research shall each retain authority to overrule any departmental approvals granted under Section II.C.
2. Intellectual Property Developed in Outside Activities – The University recognizes that difficult issues may arise when Faculty Members develop intellectual property in connection with Outside Activities. At one extreme, the University absolutely prohibits Faculty Members from intentionally using Outside Activities as a means of transferring intellectual property that they developed as employees of the University. Such actions violate State law and University policy. At the other extreme, the University has no desire to make unfair claims of ownership to intellectual property developed in Outside Activities without any connection to the University. Such claims would discourage companies from establishing consulting relationships with Faculty Members. Most situations, however, will fall between these two extremes and may raise legitimate questions about University rights in intellectual property developed in connection with Outside Activities. These complex situations are addressed in the University Intellectual Property Policy. Faculty Members are strongly encouraged to consult with their Department Chairs and the Vice Chancellor for Research, or with the University Office of Commercial Ventures and Intellectual Property, prior to commencing an Outside Activity to ensure that resulting intellectual property is outside the scope of the University Intellectual Property Policy.

3. Standard Form Rider – The CVIP will make available uniform consulting agreement provisions that may be attached to all written agreements to undertake Outside Activities entered into by a Faculty Member. These uniform provisions contain, among other things, a description of the intellectual property rights claimed by the University and a clause protecting the rights of Faculty Members to publish their University research. The uniform provisions are signed by the University, the Faculty Member, and the company, and they legally supersede any contrary provisions in the consulting agreement. The uniform provisions are intended to assist our Faculty Members and to avoid potential misunderstandings and disputes with companies. The University strongly encourages use of this standard form rider.

III. INTERPRETATION AND EVALUATION

The President or his or her designee will have authority to interpret this Policy. Periodically, but at least every three (3) years, the President or his or her designee will conduct an evaluation of this Policy and formulate amendments for the consideration of the Trustees of the University.

IV. ENFORCEMENT

The Vice Chancellor for Research may refer any matter to the appropriate University official for disciplinary or other appropriate action. If a matter involves a Conflict of Interest under the University Policy on Conflicts of Interest Relating to Intellectual Property and Commercial Ventures, the Vice Chancellor for Research shall refer the matter to the Conflicts Committee.

V. APPEALS

A Faculty Member may request that the Vice Chancellor for Research review any decision of his or her Department Chair to withhold an approval relating to Outside Activities as described in Section II.C. Decisions by the Vice Chancellor for Research will supersede prior decisions by the Department Chair.

If a Faculty Member disagrees with any decision by the Vice Chancellor for Research, the Faculty Member may request an advisory opinion from an ad hoc faculty committee composed of three members appointed by the Chancellor for that campus and three members appointed by the Faculty Senate. The Faculty Member and the Vice Chancellor for Research will each present their views to the committee. The committee will adopt an opinion by vote of a majority of its members. In the event of a deadlock, the committee may adopt two opinions. The committee will transmit its written opinion to the Faculty Member and the Vice Chancellor for Research.

If the disagreement persists, the Faculty Member may appeal the matter to the President (or his or her designee). The President will consider written statements by the Faculty Member and the Vice Chancellor for Research, as well the advisory opinion rendered by the ad hoc committee. The decision of the President shall be final within the University.

If the Faculty Member disagrees with this final University decision, the Faculty Member may exercise his or her individual legal rights (if any) to pursue the matter in a court of law located in the Commonwealth of Massachusetts.

VI. OTHER POLICIES

As noted above, Outside Activities may involve other University policies, such as the Intellectual Property Policy, the Policy on Conflicts of Interest Relating to Intellectual Property and Commercial Ventures, and the Policy on Compensation for Certain Additional Professional Services (to the extent not superseded by this Policy). Faculty Members should refer to these other policies as necessary.

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