

**ESR** Enterprise Systems Renewal

Conflict of Commitment (APM 025, 240, 246, 671), UC OATS System, Foreign Engagement in Federal Applications & Awards, and Conflict of Interest Training

# Presented by:

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# TRAINING OVERVIEW



Conflict of Commitment Policies

UC OATS System

Q & A

Foreign Engagement in Federal Applications & Awards

Conflict of Interest Policies

# UC CONFLICT OF COMMITMENT POLICIES

APM 025, APM 671, APM 240, APM 246

# Overview – Conflict of Commitment

- Policies (APM025, APM 240, APM 246, APM 671, others)
- Definition of Outside Activities/Conflict of Commitment
- Covered Titles
- Types of Categories
- Pre-approval requirements
- Time Limits
- Disclosure Requirements



# UNIVERSITY OF CALIFORNIA CONFLICT OF COMMITMENT POLICIES

APM 025 - Conflict of Commitment and Outside Activities of Faculty Members

APM 671 - Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants

APM 240 - Deans

APM 246 – Faculty Administrators (100% Time)

Regent's Standing Order 103.1(b)



# APM 025/671 – Premise Supporting Policy

Faculty members who are employed by the University of California owe their primary professional allegiance to the University and accept as their own the University's responsibilities to advance and communicate knowledge.

Teaching, research or other creative activities, clinical care (HS faculty), and the cultivation of scholarly or creative competence, **are their primary activities and should receive the largest commitment of time and energy**; the same expectation exists for part-time faculty to the extent of their faculty appointment...

# FACULTY OBLIGATIONS

Faculty members 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
- share service responsibilities throughout every quarter or semester of active service.



# Additional Faculty Obligations

Faculty must comply with all University policies involving intellectual property, conflict of interest, and restrictions on compensation:

- Regent's Standing Order 103.1(b) – states that faculty members shall not allow outside employment to interfere with primary University duties
- APM 025-4-b - states that a conflict of commitment occurs when a faculty member's outside professional activities, whether compensated or uncompensated, interfere with the faculty member's professional obligations to the University of California.
- APM-020-1 – states that members of the faculty may render professional or scholarly services for compensation, unless they are prohibited by the terms of their appointment from accepting such compensation, **but in no case may such employment be solicited or interfere with regular University duties.**

# OUTSIDE PROFESSIONAL ACTIVITIES / CONFLICT OF COMMITMENT DEFINED

Outside professional activities, compensated or uncompensated and regardless of financial interest, are defined as those activities that are within a faculty member's area of professional academic expertise and that advance or communicate that expertise through interaction with industry, the community or the public. Such activities that interfere with a faculty member's professional obligations to the University represent a **conflict of commitment**.

# TITLES COVERED BY APM 025/671 – CONFLICT OF COMMITMENT AND OUTSIDE ACTIVITIES OF FACULTY MEMBERS

Professor, including Acting titles

Professor in Residence

Adjunct Professor

Professor of Clinical (e.g.,  
Medicine)\*

Health Sciences Clinical  
Professor\*

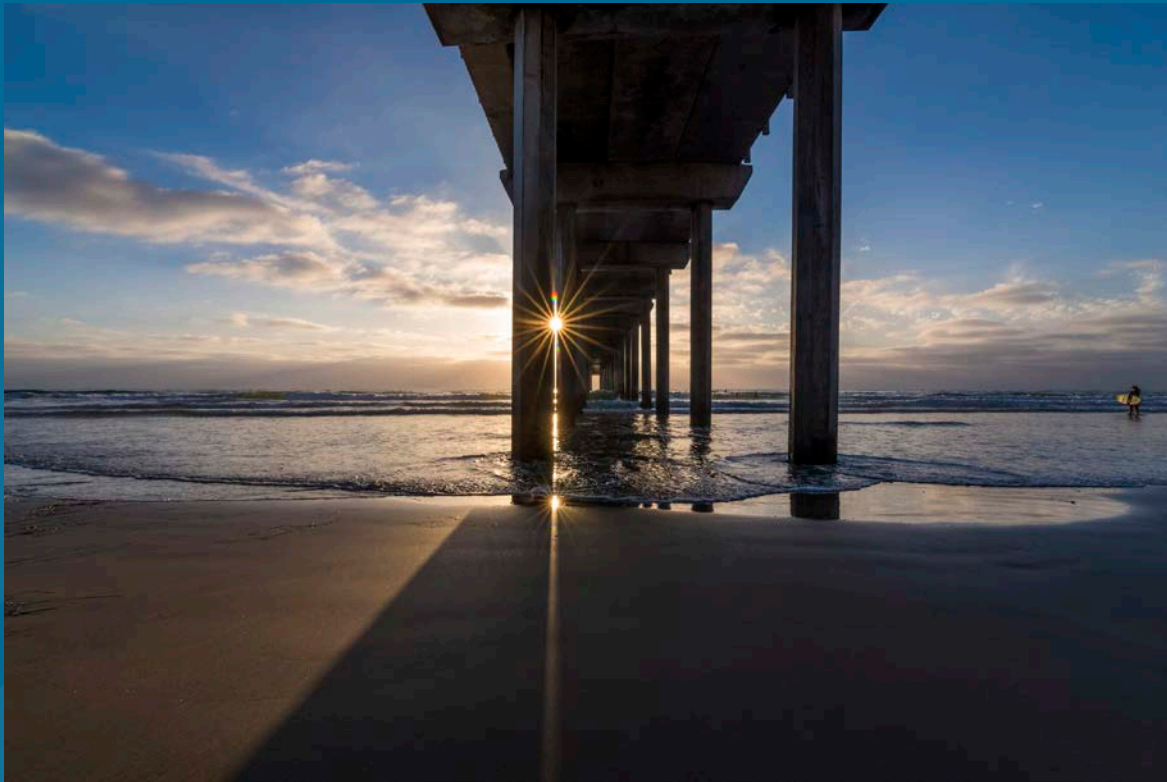
Lecturer or Senior Lecturer  
with Security of Employment

Lecturer with Potential Security  
of Employment

\*025 If not participating in  
HSCP; 671 if they are



# Conflict of Commitment Policies for Deans and Faculty Administrators:



APM - 240 – Deans -  
Conflict of Commitment  
and Outside Professional  
Activities

APM -246 Faculty  
Administrators (100%  
Time)

# CATEGORIES OUTSIDE PROFESSIONAL ACTIVITIES FALL INTO:

- Category I: most likely to create a conflict of commitment
- Category II: typically shorter and lower risk activities
- Category III: generally within course and scope of University employment
- Activities that fall into more than one category should be assigned to that category that requires more stringent reporting and approval requirements.



# TYPES OF PROFESSIONAL ACTIVITIES: CATEGORY I

Category I activities are the outside professional activities that are most likely to create a conflict of commitment because:

- 1) they are activities related to the training and expertise which is the individual's qualification for University appointment, but performed for a third party, and/or
  - 2) they require significant professional commitment.
- require prior approval by the Chancellor,
  - count toward the faculty member's maximum 39/48 days
  - require prior approval and disclosure in annual reporting



# EXAMPLES OF CATEGORY I ACTIVITIES



- Teaching, research, or administration of a grant at an educational institution, trust, organization, government agency, foundation, or other entity outside of the University;
- Employment outside of the University;
- Assuming a founding or a co-founding role of a company;
- Assuming an executive or managerial position outside of the University

# TYPES OF PROFESSIONAL ACTIVITIES: CATEGORY II

Category II activities are those which are:

- typically shorter-term outside professional activities that are outside the course and scope of University employment
- have a lesser potential for a conflict of commitment than do Category I activities.
- require disclosure in annual reporting under this policy
- do not require prior approval
- count toward the faculty member's maximum 39/48 days of outside professional activities





# EXAMPLES OF CATEGORY II ACTIVITIES



- Providing expert testimony in administrative, legislative or judicial proceedings
- Serving on a board of directors outside the university
- Providing or presenting a workshop for industry
- Consulting
- Additional University-compensated teaching, including teaching for UNEX courses and programs

# TYPES OF PROFESSIONAL ACTIVITIES: CATEGORY III

Category III activities are those professional activities within the course and scope of university employment that:

- are unlikely to create a conflict of commitment.
- do not require prior approval or annual disclosure and do not count towards the time or earnings threshold.

NOTE: Non-professional activities are part of a faculty member's private life and are not expressly governed by university regulations or guidelines on outside professional activities.



# EXAMPLES OF CATEGORY III ACTIVITIES



- Serving on government or professional panels or committees or as an officer or board member of a professional or scholarly society
- Reviewing manuscripts or acting in an editorial capacity
- Attending and presenting talks at university/academic colloquia and conferences
- Developing scholarly or creative works

# STUDENT INVOLVEMENT IN OUTSIDE ACTIVITIES

- Prior to involving a student in an outside professional activity, advance approval is required when faculty member has/may have academic responsibility (instructional, evaluative, or supervisory) for the student.
- For the purpose of this policy, “student” includes trainees, graduate students, professional students, residents, fellows, and postdocs.
- A faculty member involving a student in outside activities has the responsibility to ensure that the student’s participation does not interfere with the student’s academic obligations.
- The involvement of a student in the outside professional activity of a faculty member must not affect, positively or negatively, the faculty member’s evaluation of the student’s performance in any other context



# PRE-APPROVAL REQUIREMENTS

Faculty must obtain written pre-approval  
*prior* to engaging in Category 1 Activities

# UC OATS: DEFINITION OF A DAY



For purposes of this policy, OATS will be tracking hours instead of days. A day = 8 hours, however, when teaching is involved, the definition for teaching is that every 6 contact or “podium” hours spent with students is the equivalent of one day (see APM 662-17-b-(1)).

# APM 025: TIME LIMITS ON OUTSIDE PROFESSIONAL ACTIVITIES

Category I and II engagement maximums:

- up to 39 days per year for academic-year faculty
- 48 days per year for fiscal-year faculty; allocated evenly across service periods

There are no restrictions on Category I and II activity for academic-year faculty during the summer months unless they receive-additional University summer compensation.

- If an academic-year faculty member receives summer compensation, the limit on compensated outside professional activities is the equivalent of one day per week during the period in which such compensation is received.



# APM 671: TIME LIMITS AND EARNINGS LIMITATIONS

## Time threshold for category I & II activities

- The number of days allowed for outside professional activities each year may not exceed 48 days.
- What type of time counts? Daytime, evening, weekday, weekends, holiday, vacations, paid leaves and unpaid leaves – everything!

## Earnings threshold for category I & II activities

- Maximum annual earnings from outside activities is up to \$40,000 or 40% of the fiscal year base salary scale (whichever is greater).
- Earnings up to the threshold may be retained but must be disclosed.
- Earnings above the threshold must be deposited to the Health Sciences Compensation Plan.



# Deans – Special Considerations – APM 240



No more than three for-profit external boards (not entities of the University of California) for which he or she receives compensation and for which he or she has governance responsibilities.

May in each fiscal year engage in a maximum of forty-eight (48) calendar days of compensated outside professional activity, which includes the twelve days cited below.

May engage in compensated outside professional activity up to twelve (12) University workdays per fiscal year without deducting from vacation leave balances. In excess of twelve (12) days, shall use accrued vacation leave for performing compensated outside professional activities.

## **FACULTY ADMINISTRATORS (100%) – SPECIAL CONSIDERATIONS – APM 246**

- No more than three for-profit external boards (not entities of the University of California) for which he or she receives compensation and for which he or she has governance responsibilities.
- May in each fiscal year engage in a maximum of forty-eight (48) calendar days of compensated outside professional activity, which includes the twelve days cited below.
- May engage in compensated outside professional activity up to twelve (12) University workdays per fiscal year without deducting from vacation leave balances. In excess of twelve (12) days, shall use accrued vacation leave for performing compensated outside professional activities.

# DISCLOSURE REQUIREMENTS



All Category I activities require prior written approval from the Chancellor in advance of performing the activity. No retroactivity is permitted. Any requests for exceptions must include a rare & compelling justification.

All faculty must file an annual report of outside professional activities each fiscal year, even if the faculty member did not engage in outside professional activities during the year.

## APM 025: FACULTY ON LEAVE

- Leave without pay = disclosure, prior approval and annual reporting but not subject to time limits in APM 025-8-b
- Sabbatical or other leaves with pay (other than vacation) = disclosure, prior approval, annual reporting and time limits regardless of the funding source.
- Vacation = not subject to disclosure, prior approval, annual reporting, or time limits described in APM 025-8-b for activities performed during the vacation period.

# FAILURE TO COMPLY WITH ANY OF THE UNIVERSITY OF CALIFORNIA CONFLICT OF COMMITMENT POLICIES (APM 025, 240, 246, 671) MAY:

- Cause a faculty member to LOSE “Good Standing” status, which affects eligibility for other programs
- Subject a faculty member to discipline, corrective action, or administrative remedies pursuant to APM - 016, University Policy on Faculty Conduct and the Administration of Discipline



# UC OATS ROLES

## Faculty

- Faculty member enters activities throughout the year into UC OATS. Also may request pre-approval for Category 1 Activities.

## Reviewer

- Reviews entry for compliance within policy; may send back for additional information; forwards to Approver when ready.

## Approver

- Reviews entry; may approve, deny, or send back for additional information.

# SUMMARY

## Faculty

- Obtaining prior written approval for engagement in Category I activities;
- Submitting annual reports of all Category I and Category II activities (or lack thereof);
- Attesting to adherence with the requirements of this policy in the annual report;
- Disclosing any current or prospective outside professional activity to the Department Chair/Dean/EVC if in doubt as to whether there is a conflict of commitment; and,
- Obtaining prior approval before involving a student in an outside professional activity (see APM 025-8-d).

# Q&A



The next part of today's demonstration will illustrate how to use the new, web-based University of California Outside Activities Tracking System (UC OATS).

Please hold system related questions for that upcoming segment.



# UC OATS

## Overview & Demonstration

# **FOREIGN ENGAGEMENT IN FEDERAL APPLICATIONS & AWARDS**

**RACHEL COOK, GRANT ANALYST SUPERVISOR**

# FOREIGN ENGAGEMENT IN FEDERAL APPLICATIONS & AWARDS

“The recent cases of foreign influence have exposed activities and resources that should have been reported to institutions and NIH, and were not”  
– Wendy D. Streitz, President, Council on Governmental Relations (COGR)



NOT-OD-19-114: NIH intent for this notice is “to **remind** the extramural community about the **need** to report foreign activities through documentation of other support, foreign components, and financial conflict of interest to **prevent** scientific, budgetary, or commitment overlap.”

<https://grants.nih.gov/grants/guide/notice-files/NOT-OD-19-114.html>

# FEDERAL GOVERNMENT RAISED CONCERNS ABOUT INAPPROPRIATE FOREIGN INFLUENCE IN RESEARCH CONDUCTED AT U.S. RESEARCH INSTITUTIONS

- The National Institutes of Health (NIH), the National Science Foundation (NSF), the Department of Defense (DoD), and the Department of Energy (DoE) have recently issued notices addressing this issue.
- The most notable letter was from Dr. Francis Collins, Director, NIH (8/20/18):
  1. Diversion of intellectual property to foreign entities;
  2. Sharing of confidential information by NIH peer reviewers with foreign entities; and
  3. Failure by some researchers to disclose substantial resources from other organizations, including foreign entities.
- As a result of all of these notices, federal funding agencies have increased their efforts in ensuring compliance with reporting requirements. Thus, it is **important that faculty and researchers maintain their diligence** in disclosing all forms of research support, affiliations, and foreign components as required by Federal regulations.

# EXAMPLES OF WHEN & WHERE TO DISCLOSE A FOREIGN COMPONENT

Application	Just-in-Time (Prior to Award)	Post-Award / Scientific Progress Report & Final Report
Biographical Sketch(es) <ul style="list-style-type: none"> <li>List <u>ALL</u> positions and honors must be listed, both domestic and foreign (including Talent Programs)</li> </ul>	Other Support (NIH)	Updates to Biographical Sketch(es)
Current & Pending Support (NSF/DOD)	Changes to or Additions of Key Personnel	Updates to Current & Pending Support
Other Support (NIH)	Changes to or Additions of a Foreign Component	Updates to Other Support
Performance Site Location(s)	Updates to Budget & Budget Justification	Changes to or Additions of a Foreign Component
Foreign Subawards/Subcontracts		Publications
Budget & Budget Justification		Intellectual Property

# CAMPUS RESOURCES & RECENT FEDERAL NOTICES

- Blink & UC San Diego Research: <https://blink.ucsd.edu/research/foreign-engagements.html>
- Export Control: <https://blink.ucsd.edu/sponsor/exportcontrol/>
- HS SPPO: <https://medschool.ucsd.edu/vchs/research-services/hssppo/review/Pages/Foreign-Involvement.aspx>
- NIH Other Support & Foreign Component FAQs: <https://grants.nih.gov/grants/faq-other-support-foreign-components.htm>
- NOT-OD-19-114: Reminders of NIH Policies on Other Support and on Policies related to Financial Conflicts of Interest and Foreign Components: <https://grants.nih.gov/grants/guide/notice-files/NOT-OD-19-114.html>
- NSF 19-200 : Dear Colleague Letter: Research Protection: [https://www.nsf.gov/pubs/2019/nsf19200/research\\_protection.jsp](https://www.nsf.gov/pubs/2019/nsf19200/research_protection.jsp)
- DOE O 486.1: Department of Energy Foreign Government Talent Recruitment Programs: <https://www.directives.doe.gov/directives-documents/400-series/0486-1-border/@@images/file>

# NIH'S FORMULA TO DETERMINE WHETHER FOREIGN COMPONENT OR FOREIGN OTHER SUPPORT

NIH requires recipients to determine whether activities it supports include a foreign component, defined as: the existence of any “significant scientific element or segment of a project” outside of the United States, in other words

- Performance of work by a researcher or recipient in a foreign location, whether or not NIH grant funds are expended; and/or
- Performance of work by a researcher in a foreign location employed or paid for by a foreign organization, whether or not NIH grant funds are expended.

## ***Fits Foreign Component Definition:***

If a recipient determines that a portion of the project will be conducted outside of the U.S., the recipient then will need to determine if the activities are considered significant. If both criteria are met, then there is a foreign component.

## ***Fits Other Support Definition:***

If an activity does not meet the definition of foreign component because all research is being conducted within the United States, but there is a non-U.S. resource that supports the research of an investigator and/or researcher, it must be reported as other support.

# FOREIGN COMPONENTS: NIH EXAMPLES

## Example #1

If a PD/PI of an NIH-funded grant has a collaborator outside of the U.S. who performs experiments in support of the PD/PI's NIH-funded project, this would constitute a foreign component, regardless of whether the foreign collaborator receives funding from the PD/PI's grant.

## Example #2

Additional funding from a foreign source for the NIH-supported research of a PD/PI at a U.S. institution would not constitute a foreign component but would necessitate reporting as other support.





# CONFLICT OF INTEREST (COI)

JENNIFER J. FORD, COI DIRECTOR

# CONFLICT OF INTEREST (COI) OFFICE SERVICES

- Reviews disclosures of financial interests from University faculty and staff
- Ensures compliance with all applicable regulations
- Serves as a resource to University faculty, staff and institutional offices



# OVERVIEW: FACULTY MEMBERS' OUTSIDE PROFESSIONAL ACTIVITIES ARE GOVERNED BY MANY DIFFERENT AUTHORITIES (UNIVERSITY, STATE, FEDERAL)

## Conflict of Interest Policies are governed by University, State and Federal regulations

- The Conflict of Interest (COI) Office Reviews COI disclosures of related financial interest between University investigators and private entities.
- Ensures campus compliance with UC policy, state law and federal regulations pertaining to conflict of interest.
- Campus system to be used for COI Disclosures Kuali COI
- Kuali COI launch date is January 21, 2020 with Kuali Research

## Conflict of Commitment Policies are put in place by systemwide University of California Academic Policy Manual (APM)

- Conflict of Commitment academic policies ensure faculty hired here keep their commitment to the university as their primary employment obligation.
- They are sorted into categories by levels of risk and approval expectations
- Different policies apply to different populations.
- UC OATS launch date is September 3, 2019

# HOW CONFLICT OF COMMITMENT (COC) AND CONFLICT OF INTEREST (COI) DIFFER?

	<u>Conflict of Commitment</u>	<u>Conflict of Interest</u>
Policies	APM 025 / APM 671	UCSD PPM 200-13, APM 028, OP PHS and NSF*
Disclosure Forms	Category I (prior approval) and II	Dependent on outside funding entity or type of activity**
Timing	Category I: Prior to Engagement Category II: Annually	Proposal and/or award stages and then dependent on funding
Responsible Offices	Academic Personnel	Conflict of Interest Office
Electronic Systems	UC OATS (Live September)	Kuali COI (Live Jan 21, 2020)

## Similarity: Engagement with outside activities

\* There are many COI policies, see <http://blink.ucsd.edu/sponsor/coi/policies.html>

\*\* Disclosure may be required for internal funding when Human Subjects are involved

# What is a “Conflict of Interest” (COI)?

The term “conflict of interest” (COI) refers to situations in which financial or other personal considerations may compromise or *have the appearance of compromising* an employee’s professional judgment in administration, management, teaching, research and other professional activities

As a public institution we have to be mindful of the **actual or appearance** of a conflict of interest



# WHAT CONSTITUTES A POTENTIAL COI?

- Income/Payments:
  - Salaries, Consulting, Honoraria, etc.
- Position:
  - Founder, Partner, Board of Directors, Scientific Advisory Board, Employee, etc.
- Ownership Interest:
  - Stocks, Bonds, Stock Options
- Gifts
- Loans
- Travel Reimbursement/Payments
- Intellectual Property (non-UC royalties)

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Applies to the Employee, Spouse, Registered Domestic Partner, Dependent Children

# WHAT IS SUBJECT TO COI DISCLOSURE? RESEARCH OR OTHER RELATED ACTIVITIES

## Sponsored Research (Basic, Applied, Animal, Human)

- Federal
  - NIH and NSF
  - Other agencies who have adopted the federal requirements (including sub-awards)
- Non-Federal
  - Non-Profit
  - For-Profit

## Other Related Activities

- Gifts
- Lab Service Agreements (LSA)
- Institutional Service/Consulting Agreements (ISA/ICA)
- Material Transfer Agreements (MTA)
- Unfunded research activities (including human subjects)

# FOR RESEARCH AND OTHER RELATED ACTIVITIES WHAT INTERESTS TO DISCLOSE?

1) Who is the Sponsor?	2) Which Disclosure Form?	3) What to Disclose?	4) Who decides if the research and the interests are related?
Public Health Services (PHS) (i.e. NIH and those who have adopted PHS)	PHS	Disclose all interests related to the discloser's Institutional Responsibilities*	Institution
Federal Non-PHS (i.e. NSF, CIRM and UC Programs)	9510	Disclose any interests related to the work to be conducted under the proposed project	Discloser
Non-Federal (For-Profit or Non-Profit)**	700U	Disclose any interests with the sponsor(s)	Institution

\*Reasonably appears *to be related to or is in the same field of expertise as your Institutional Responsibilities.*

\*\* Includes research and other related activities (gifts, service agreements, MTAs, unfunded projects, etc.)



# THRESHOLDS FOR DISCLOSURE?

Funding Entity Sponsor	Income Compensation	Ownership Position	Investment Equity	Travel reimbursement	Loans	Gifts	Intellectual Property
Public Health Services (PHS)	publicly traded > \$5,000	Any	publicly traded > \$5,000	> \$5,000	> \$5,000	> \$5,000	Any excludes UC
	non-publicly traded > \$5,000		non-publicly traded ≥ \$0				
Federal Non-PHS 9510	> \$10,000	Any	> \$10,000 or > 5% owner	> \$10,000	> \$10,000	> \$10,000	Any excludes UC
Non-Federal 700U	>\$500	Any	>\$2,000	≥ \$0	≥ \$500	≥ \$50	Any excludes UC

**Important: Update of Financial Interests for Sponsored Activities within 30 days**

# KUALI COI

Kuali COI is a user-friendly, web based system to create electronic conflict of interest disclosure

Under the Enterprise System Renewal (ESR) program Kuali COI was procured to:

- Simplify
- Collect
- Process
- Access

Investigator(s) financial interests and outside activities

For PHS projects submit one disclosure per year

Kuali COI will integrate with Kuali Research and launch together



SDSC's Gordon Supercomputer. Photo: Erik Jepsen, UCSD