

NOTICE: PROPOSED AMENDED REGULATION

DATE: January 30, 2014

Regulation No: USF 10.107	Ethical Obligations: Conflicts of Interest, Outside Employment, Employment of Relatives, and Public Office (Faculty)
---------------------------	--

Summary:

Florida Board of Governors Regulation 1.001 provides that “Each board of trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors,” (7-21-05). Such regulations must be consistent with law, and the regulations and strategic plan of the Board of Governors. The Regulation Development Procedure requires that the University Board of Trustees periodically review existing regulations to ensure they are current and consistent.

Regulation 10.107 is being amended and 10.206 is being repealed, and as a result they will be consolidated due to the new USF System Policy 0-027, which will implement a new web-based disclosure system (*eDisclose*) for the Florida Code of Ethics for Public Officers and Employees, including employee disclosures of Outside Activity.

The amendment and repeal of the Regulations and promulgation of the new Policy was approved by the USF System Compliance and Ethics Council and new Policy 0-027 has completed the review and comment process required by USF System Policy 0-001.

AUTHORITY TO ADOPT/AMEND/REPEAL REGULATION(S): Art. IX, Sec. 7, Fla. Constitution, BOG Regulation 1.001.

UNIVERSITY OFFICIAL INITIATING PROPOSED AMENDMENT OF REGULATION(S): Jeff Muir, USF System Chief Compliance Officer.

WRITTEN COMMENTS CONCERNING THIS PROPOSED REGULATION MAY BE SUBMITTED WITHIN 14 DAYS AFTER THE POSTING DATE OF THIS NOTICE TO:

Lauren Hartmann, Legal Administrative Specialist
Office of the General Counsel
University of South Florida System
4202 East Fowler Avenue, Suite CGS 301 Tampa, FL 33620-4301
Phone: 813.974.7150; FAX: 813.974.5236
E-MAIL: usflegal@usf.edu

End of Summary

Full text of the proposed amended Regulation follows.

Number: USF10.107

Subject: Ethical Obligations: Conflicts of Interest, Outside Employment, Employment of Relatives, and Public Office (Faculty)

I. PURPOSE & INTENT

~~(1) Faculty members must be aware of their obligations and responsibilities as public employees of the USF System.~~

~~(a) No faculty members may have an interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature that is in substantial conflict with the full and competent performance of their duties.~~

~~(b) Faculty members~~Employees of the University of South Florida System (USF System) are required to observe, in all official acts, the highest standards of ethics and conduct consistent with the code of ethics and the financial disclosure requirements of ~~the~~ the State of Florida, Chapter 112, including Part III, Florida Statutes (Florida Code of Ethics for Public Officers and Employees) and, all definitions contained in that Part ~~or supplemented by this Regulation~~, and State advisory opinions issued regarding that Part. USF System Policy 0-027 provides clarification and guidance for USF System Employees regarding their ethical obligations including: solicitation or acceptance of gifts; misuse of public position; conflicting business, employment, or contractual relationships; nepotism; annual acknowledgement and disclosure; and outside activities and potential conflicts of interest or commitment. ~~Other provisions within these Regulations govern obligations and responsibilities of employees who receive employment compensation in addition to their annual salary.~~

~~(2) For purposes of this Regulation:~~

~~(a) "Outside Activity" means any employment, private practice, private consulting, service on boards or commissions, or any other activity, which is not part of the employee's duties for the USF System and for which the USF System does not provide compensation.~~

~~(b) "Compensation" includes but is not limited to, wages, salary, stock options, use of airplanes or vacation/resort areas, or any other type of remuneration received for services performed by the faculty member during the outside activity.~~

~~(c) "Conflict of interest" means any conflict between private interests of the faculty member and public interests of the USF System.~~

~~(3) Faculty members must not engage in any outside activity that interferes with the full performance of their institutional responsibilities and obligations. Nothing in this regulation is intended to discourage a faculty member from engaging in outside activity in order to increase his/her professional reputation, service to the community, or income, subject to the conditions stated in this Regulation.~~

~~(4) Faculty members who wish to engage in any outside activity making use of facilities, equipment, services, students or employees of the USF System in connection with such outside activity must obtain prior written approval of the appropriate official of the USF System and complete the Outside Activity Form, as described in Section (6) of this Regulation. The USF System will administer the use of facilities; however, space assignments will be on a space~~

~~available basis with priority given to any groups and/or persons whose activities are related to the mission of the USF System.~~

~~(5) A faculty member engaging in outside activity must take reasonable precautions to ensure that the public, the outside employer or other recipient of services understands that the faculty member is functioning as a private citizen and not as an employee, agent, or spokesperson of the USF System.~~

~~(6) A faculty member who intends to engage in any outside activity that the employee should reasonably conclude may create a conflict of interest, or in any outside compensated professional activity, shall report any information requested by the USF System about the outside activity to his/her supervisor, in writing, prior to engaging in the outside activity. The supervisor will accept or reject the report in writing and deliver it to the Provost or appropriate Vice President or CEO.~~

~~(a) The report shall include where applicable the name of the employer or other recipient of services; the funding source; the location where the activity will be performed; the nature of the activity; and any intended use of university facilities, equipment, services, or students.~~

~~(b) The reporting provisions will not apply to activities performed wholly during a period in which the faculty member has no appointment with the USF System.~~

~~(c) The appropriate official of the USF System will notify the faculty member if it is believed that a conflict of interest will result from a proposed outside activity and will deny the request. Faculty members have the right to grieve this decision, and to have the grievance heard expeditiously, and may continue the activity until the matter is resolved. If it is resolved that there is a conflict of interest, the faculty member shall cease such activity immediately and, when determined to be in the best interest of the USF System, shall make payment to the USF System all or part of the compensation earned therefrom.~~

~~(7) The Vice President for Research & Innovation is responsible for all intellectual property, inventions and works developed by employees of the USF System and will develop guidelines for the administration and protection of any intellectual property, inventions or works, and any copyright, patent or licensing interests of the USF System. Faculty representatives must be included in the process of developing such guidelines.~~

~~(8) A faculty member who proposes to engage in outside professional employment that may lead to the development of some invention or work in which the USF System may have or claim an interest must furnish a copy of this Regulation and any other applicable procedures or governing documents to the outside employer or entity either at the time negotiations for other employment is occurring, or if there is no written agreement, before the employment begins.~~

~~(9) The CAO or Vice President for Research & Innovation shall approve any requirement(s) that faculty members, engaged in an outside activity, must waive their or the USF System's rights or interests to any inventions or works which may be developed during the course of outside employment.~~

~~(10) Any agreement by the CAO or the Vice President for Research & Innovation to assign or release any invention or work, including patent rights, to a faculty member must include that such invention or work, if patented by the employee, must be available royalty-free for governmental purposes of the State of Florida, unless otherwise agreed in writing by the USF System.~~

~~(11) Employment of related persons in a single organizational unit is permitted, only when such employment will not involve or create a conflict of interest, and no faculty member may participate in making recommendations or influencing decisions specifically affecting the appointment, retention, tenure, work assignments, evaluation, promotion, demotion, or salary of any relative. The Provost or Vice President responsible for the subject organizational unit will determine, and document in writing, prior to employment of related persons, that a conflict of interest will not occur.~~

~~For the purpose of this Regulation, “relative” or “related” persons are those related to each other in one of the following ways: husband; wife; parent; child; brother; sister; spouse of a child; brother, sister, or parent; or parent, child, brother, or sister of spouse; grandparent; grandchild; aunt, uncle, first cousin, niece or nephew. “Relative” or “related” person also includes a person who is engaged to be married to an employee or who otherwise holds himself or herself out as or is generally known as the person whom the employee intends to marry or with whom the employee intends to form a household, or any other person having the same legal residence as the employee of the USF System.~~

~~(12) Faculty members who intend to seek election to and hold public office will provide written notification to the CAO of their intentions and must adhere to the provisions of Section 104.31, Florida Statutes, or any successor statute.~~

Authority: Art. II, Sec. 8, Fla. Constitution, Art. IX, Sec. 7, Fla. Constitution², Fla. Board of Governors Regulation 1.001. History, New 10-5-03. Formerly 6C4-10.107, F.A.C., Amended 11-17-09.