**Outside Employment and Activities UPPS No. 04.04.06**

**Issue No. 9**

**Effective Date: 07/27/2021**

**Next Review Date: 06/01/2025 (E4Y)**

**Sr. Reviewer: Assistant Vice President for Human Resources**

**POLICY STATEMENT**

*Texas State University is committed to providing an environment dedicated to teaching and research and to providing additional guidance to employees regarding actual, potential, or perceived conflicts of interests that may arise from engaging in outside consulting, employment, and other activities.*

1. **BACKGROUND INFORMATION**
	1. This policy establishes procedures for individuals to have concurrent employment or participate in certain activities outside Texas State University.
	2. Texas State recognizes the common practice of faculty and staff to hold more than one instance of employment or position due to needs, interests, or development. Employment or participation in activities outside the university is permitted as long as it does not create a perceived or real conflict of interest or interfere with the employee’s complete and effective performance of university duties and responsibilities, as determined by the division vice president.
	3. The university president has the authority to disapprove any outside employment or activity under the provisions of this policy that creates a conflict of interest or interferes with the employee’s university duties and responsibilities.
	4. State law ([Texas Constitution, Article 16, Section 40(b)](http://www.statutes.legis.state.tx.us/Docs/CN/htm/CN.16.htm)) provides that state employees shall not be barred from serving as members of the governing bodies of school districts, cities, towns, or other local governmental districts provided no compensation is received for serving as members of such governing bodies.
	5. Participation in outside employment or activities must comply with the provisions of this policy; the outside employment, conflict of interest, conflict of commitment, code of ethics, political activities, and dual office holding provisions of [The Texas State University System (TSUS) Rules and Regulations, Chapters V and VIII](https://gato-docs.its.txstate.edu/jcr%3A8107d675-b45d-4f40-bc44-500035a30dce/2019%20Rules%20and%20Regs%20%28rev%20thru%2008-22-19%29.pdf); and any other applicable TSUS provisions.

**02. DEFINITIONS**

02.01 Outside Employment – any compensated employment, consulting, or service performed by the employee outside of the employee's employment relationship with Texas State for the direct or indirect benefit of the employee or the organization served.

02.02 Outside Activity – any uncompensated activity, consulting, or service performed by the employee outside of the employee's employment relationship with Texas State for the direct or indirect benefit of the employee or the organization served.

02.03 Conflict of Interest and Commitment – any outside employment or activity, as determined by the employee’s division vice president, that interferes or conflicts with the employee's Texas State duties and responsibilities, and includes, as a minimum, the situations described in [UPPS No. 01.04.02](http://www.txstate.edu/effective/upps/upps-01-04-02.html), Ethics Policy; [UPPS No. 02.02.07](http://www.txstate.edu/effective/upps/upps-02-02-07.html), Researcher Conflicts of Interest in Research and Sponsored Program Activities; [UPPS No. 02.02.08](http://www.txstate.edu/effective/upps/upps-02-02-08.html), Conflicts of Commitment in Research and Sponsored Program Activities; and [TSUS Rules and Regulations, Chapter V, Section 4.83, and Chapter VIII](https://gato-docs.its.txstate.edu/jcr%3A8107d675-b45d-4f40-bc44-500035a30dce/2019%20Rules%20and%20Regs%20%28rev%20thru%2008-22-19%29.pdf).

**03. SPECIAL PROVISIONS**

* 1. To serve in public office or pursue political activities, an employee may not:
1. create the impression that they officially represent Texas State;

1. utilize or expend university resources;

1. neglect their university duties, unless on eligible approved leave; or

1. conduct political or campaign activities on university property during normal working hours. This does not apply to an employee who is engaging in such activities at any polling place on campus that has been properly authorized and designated as an official polling place by the appropriate university authority if the activities are during non-working hours or the employee is on eligible approved leave.
	1. Additional Employment with the State of Texas
2. [Section 667.007, Texas Government Code](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.667.htm), requires that all state employees inform their employing state agencies or public institutions of higher education prior to accepting additional employment with another agency or institution.
3. The employee’s agency or institution will inform the employee that:

1) each employment requires maintenance of separate leave records;

2) they may not use time worked in one position as additional service credit for longevity purposes or annual leave accrual for other positions;

3) upon termination of one instance of employment, an employee may not transfer leave balances accrued under the terminating instance of employment to the remaining instance of employment;

4) the state contribution towards the employee’s benefit replacement pay corresponds to the overall individual limit, meaning the university treats the employee as if holding only one state position;

5) the total state contribution towards the employee’s group insurance may not exceed the amount specified in the Appropriations Act for full-time, active employees;

6) the staff employee will receive state longevity payment for no more than one instance of employment; and

7) overtime compensation will accrue to each instance of employment independent of the other except in those instances in which a staff employee is subject to the overtime provisions of the [Fair Labor Standards Act (FLSA)](https://www.dol.gov/whd/regs/compliance/hrg.htm). When the employee is subject to [FLSA](https://www.dol.gov/whd/regs/compliance/hrg.htm) provisions, the employing state entities must consider all combined time worked in excess of 40 hours per week as overtime and compensate the employee in accordance with the [FLSA](https://www.dol.gov/whd/regs/compliance/hrg.htm) provisions applicable to joint employment relationships. The two entities shall coordinate in order to determine which entity will have the responsibility for ensuring that the employee is properly compensated.

**04. PROCEDURES FOR REPORTING OUTSIDE EMPLOYMENT OR ACTIVITIES**

* 1. Employment

Employees shall complete a [Request for Outside Employment or Activity Form](https://www.hr.txstate.edu/forms.html) and obtain written approval before beginning any outside employment, as defined in Section 02.01. Instructions for completing the request form can be found under the “Employment” section header on the [HR Forms page](https://www.hr.txstate.edu/forms.html).

1. The approval authority is the employee’s division vice president.

The request form will be routed directly to the employee’s department head. The department head will review the request for compliance, recommend approval or disapproval, specify justification for the recommendation, and route through the normal administrative levels to the division vice president.

The division vice president will approve or deny the request, specify the justification for the decision, and route the request form back to the department head who will forward the form to the employee.

The division vice president’s decision is final unless the vice president submits the request to the university president for a decision.

1. A copy of all approved forms must be routed to Human Resources from the vice president’s office and will be retained in the employee’s personnel file. For additional state employment, it is critical that these forms be routed promptly for coordination of pay and benefits.

1. Reporting Requirements
2. Faculty – Faculty are required to:

(a) report any outside employment prior to accepting any employment;

(b) report all outside employment annually (beginning September
1); and

(c) report any changes that may occur during the academic year (e.g., change in outside employment workload).

1. Staff – Staff outside employment must only be reported once. However, if there is a change (i.e., termination of employment relationship, significant change in duties and responsibilities, or a change in employer) the employee must resubmit for review and continued approval.
	1. Activity

Texas State employees shall take approved leave from their regular position in order to perform volunteer service during their normal work hours unless it meets the definition of incidental work in Section a. below.

Other than the public service exception described below, activities for which the employee does not receive any compensation do not need to be reported unless the employee or supervisor believes there may be a perceived or real conflict of interest or interference with the employee’s effective performance of university duties and responsibilities, or if the outside activities will take place during or interfere with the employee’s normally scheduled work hours.

Public Service Exception – Uncompensated activity, which includes serving in either an elected or appointed capacity, in any federal, state, or local government entity including governing bodies of school districts, cities, towns, or other local governmental districts, must be reported.

a. For the purposes of this policy, incidental service is defined as occasional or isolated activity that:

* + - * 1. does not exceed one hour per week in aggregate, regardless of whether the activity is undertaken during normal working hours;
				2. does not prevent the employee from completing the normal amount of work for which the employee is paid or is expected to perform; and
				3. does not increase the overhead or operating costs of the university.

Employees are not permitted to use Texas State equipment, vehicles, or other resources in carrying out activities or volunteer assignments for non-Texas State organizations except as explicitly allowed by federal or state law, or university policy.

In the event of a local natural disaster, large-scale life-threatening emergency, or similar calamity, the university president, or designee, may make an exception to policy in order to allow the use of Texas State equipment, vehicles, and resources.

Any outside activity reported shall follow the same procedures outlined in Section 04.01.

**05. REVIEWERS OF THIS UPPS**

05.01 Reviewers of this UPPS include the following:

Position Date

Assistant Vice President for Human June 1 E4Y

Resources

Provost and Vice President for June 1 E4Y

Academic Affairs

Chair, Staff Council June 1 E4Y

Chair, Faculty Senate June 1 E4Y

**06. CERTIFICATION STATEMENT**

This UPPS has been approved by the following individuals in their official capacities and represents Texas State policy and procedure from the date of this document until superseded.

Assistant Vice President for Human Resources; senior reviewer of this UPPS

Vice President for Finance and Support Services

President