

- 37.4.3. Partial compensation may be paid a faculty member for teaching a class which does not meet the established minimum size. Exceptions are noted in 36.4.2 above.
- 37.4.4. The summer program budget will make available salary dollars to fund classes which meet the criteria as stated in 36.4.1, 36.4.2, and 36.4.3 above.
- 37.5. Each salary unit plan must be approved by a majority of the members of the salary unit, the head of the salary unit, the Provost and Executive Vice President for Academic Affairs and the Salary and Benefits Committee of the Faculty Council.
- 37.6. The Summer Session Salary Policies Statement supersedes conflicting departmental, collegiate and/or University summer salary policies.

## 38. POLICY ON CONFLICT OF INTEREST AND CONFLICT OF COMMITMENT<sup>48</sup>

### 38.1. Preamble

- 38.1.1. Ball State University is committed to providing quality teaching, research, and service. Often, this mission is served by the active participation of its employees in activities outside the University. Interaction with business, government, not-for-profit groups, professional societies, academic institutions, and private individuals or organizations contributes to the professional growth of employees and to the enrichment of University programs. University employees are therefore encouraged to share their professional knowledge and expertise through outside activities that do not interfere with their University responsibilities.
- 38.1.2. While such interaction is encouraged, an employee's professional or other activities outside the University may result in a real or perceived conflict of interest or conflict of commitment. These conflicts may affect the way in which the employee carries out his or her University responsibilities. Conflicts of interest or conflicts of commitment may also adversely impact the University's mission, and they may undermine public confidence in the University. It is therefore necessary to assess and to eliminate or manage conflicts of interest and conflicts of commitment, so that the integrity and the interests of the University, as well as those of its employees, are protected.
- 38.1.3. The purpose of this policy is to provide guidance for recognizing and dealing with actual or potential conflicts of interest and conflicts of commitment. It sets forth University-wide procedures for disclosing and resolving such conflicts. Colleges, departments and other administrative units may adopt additional policies and procedures covering conflicts of interest and conflicts of commitment provided they are consistent with the provisions of this policy. All such policies and procedures must be approved by the President, following review by the policy coordinator for consistency with this policy. In no way should this policy be interpreted or implemented so as to infringe upon matters of academic freedom, freedom of speech or political expression (Bill of Rights and Responsibilities for Faculty, Professional Personnel, and Staff of Ball State University, page xiii, Faculty and Professional Personnel Handbook).
- 38.1.4. The Appendix to this Policy lists other University policies that deal with related issues.

### 38.2. Definitions

- 38.2.1. Definitions Related to Conflicts of Interest:

- 38.2.1.1. A "conflict of interest" exists when a University employee is in a position to influence, either directly or indirectly, University business, research or other decisions in matters in which the employee or a dependent of the employee has a significant financial interest.
- 38.2.1.2. A "significant financial interest" means anything of monetary value, including but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights). The term does not include:
  - 38.2.1.2.1. salary, royalties or other remuneration from the University;
  - 38.2.1.2.2. income from seminars, lectures or teaching engagements sponsored by public or nonprofit entities;
  - 38.2.1.2.3. income from service on advisory committees or review panels for public or nonprofit entities;
  - 38.2.1.2.4. an equity interest that, when aggregated for the employee and the employee's dependents, meets both of the following tests: (a) it does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value; and (b) it does not represent more than a five percent ownership interest in any single entity;
  - 38.2.1.2.5. salary, royalties or other payments that, when aggregated for the employee and the employee's dependents over the next twelve months, are not reasonably expected to exceed \$10,000; or
  - 38.2.1.2.6. any financial interest arising solely by means of investment in a mutual, pension, or other institutional investment fund over the management and investments of which the employee does not exercise control.

Note that this definition of "significant financial interest" differs from the definition of "pecuniary interest" under the Indiana Conflicts of Interest Law.

38.2.2. Definitions Related to Conflicts of Commitment:

- 38.2.2.1. A "conflict of commitment" arises when a University employee's activities outside of the University affect--or appear reasonably likely to affect--the manner or extent to which the employee carries out his or her University responsibilities.
- 38.2.2.2. "University responsibilities" are the responsibilities of a University employee to perform University activities as defined by a University or administrative unit policy or contract.
- 38.2.2.3. "Activities outside of the University" and "outside activities" are activities not directly related to the research, teaching and service mission of the University.
- 38.2.2.4. "University activities," by contrast, are activities directly related to the research, teaching and service mission of the University.

Note: the line separating "University activities" and "activities outside of the University" for faculty is imprecise at best and may differ among disciplines and professions. One useful guideline for faculty is the question: is this an activity a faculty member would list on his or her annual faculty report for which he or she would expect to receive credit during the tenure, promotion, and/or salary-setting processes?

- 38.2.2.5. "Professional activities" are activities related to the research, teaching and service mission of the University or to an employee's discipline, profession or craft, irrespective of whether those activities are compensated or constitute University activities.

38.2.3. Other Definitions:

- 38.2.3.1. A "dependent" of an employee includes: (a) the employee's spouse; (b) a child, stepchild, or adoptee of the employee who is unemancipated and less than eighteen years of age; and (c) any person, whether or not related to the employee, who receives more than one-half of his or her annual support from the employee.
- 38.2.3.2. The "disclosure form" is the Statement of Disclosure of a Conflict of Interest and/or Conflict of Commitment form.
- 38.2.3.3. An "employee" is any person employed by the University, whether full- or part-time; except that the term does not include student employees other than graduate assistants.
- 38.2.3.4. The "policy coordinator" is the Coordinator of Research Compliance, in the University's Sponsored Programs Office. The policy coordinator will coordinate the implementation and administration of this Policy, maintain appropriate records, and provide expertise for the identification, disclosure and resolution or management of conflicts of interest and conflicts of commitment.
- 38.2.3.5. The "University" refers to Ball State University.

**38.3. Conflicts of Commitment; Principles Applicable to Outside Activities**

- 38.3.1. Right to Engage in Activities Outside of the University. A University employee may engage in activities outside of the University, provided that those activities do not interfere with the employee's performance of his or her University responsibilities or otherwise constitute a conflict of interest.
- 38.3.2. Use of University Resources. No employee shall use University resources in the performance of outside activities without the permission of his or her dean or administrative unit head and without reimbursing the University.
- 38.3.3. Outside Professional Activities of Full-time Faculty. Full-time faculty shall be permitted to spend an average of up to one day a week on professional activities other than University activities, provided that those activities do not otherwise constitute a conflict of interest.
- 38.3.4. Income From Outside Activities Not a Factor. An employee's compliance with this Section 38.3 or with any other University or administrative unit policy on conflicts of commitment shall not be determined on the basis of income earned from outside activities or the percentage of the employee's University compensation that such income constitutes, unless required by law.
- 38.3.5. This Section 37.3 sets forth four basic principles applicable to all outside activities:
  - 38.3.5.1. University employees are permitted and encouraged to engage in those activities to the extent that they do not interfere with the employees' University responsibilities.
  - 38.3.5.2. Employees may not use University resources in the performance of outside activities without reimbursing the University and obtaining appropriate permission.
  - 38.3.5.3. Issues relating to these activities should be resolved within the lowest administrative unit whenever possible.
  - 38.3.5.4. The limits on collegiate, departmental and other administrative unit policies are: (a) they may not interfere with the University's policy permitting full-time faculty to spend an average of up to one day each week on professional, but not necessarily University, activities; and (b) they may not substitute a 20% of compensation rule for the one-day-per-week policy or add such a rule to the policy.

- 38.3.6. The reference in Section 38.3.3 to "full-time" faculty reflects the conclusion that University policy need not provide that part-time faculty be permitted at least one day each week to engage in professional activities outside of the University, because University policy does not, and should not, place any limit on the time that part-time faculty spend on outside activities. Part-time faculty, however, are subject to Sections 38.3.1 and 38.3.2 and the other sections of this Policy.

#### **38.4. Obligation to Identify and Avoid or Manage Conflicts**

- 38.4.1. University employees share an obligation to conduct their professional activities in a manner consistent with the University's mission and to conduct their relationships with each other and with the University with candor and integrity. Pursuant to that obligation, employees have a responsibility to identify and, when possible, avoid conflicts of interest and conflicts of commitment. When they cannot be avoided, employees must disclose conflicts of interest and conflicts of commitment, and they must work with University officials to manage or resolve those conflicts.

#### **38.5. Procedures for Disclosing and Managing Conflicts**

- 38.5.1. Obligation to Disclose Conflicts of Interest and Conflicts of Commitment:

It is the responsibility of each employee to promptly and prospectively disclose a conflict of interest or a conflict of commitment involving the affairs or activities of that employee.

Examples of activities that may, depending on the facts and circumstances, constitute such a conflict are: (i) activities of the employee which advance his or her own financial, professional, or other interests, or those of a dependent, to the detriment of the University; (ii) teaching by a full-time faculty member at another educational institution, including teaching through the Internet; (iii) utilizing University students, employees, facilities or materials in the pursuit of outside activities from which the University will derive no benefit; and (iv) engaging in research or consulting activities that interfere or compromise the employee's execution of his or her University responsibilities.

- 38.5.2. Procedure for disclosing conflicts: To disclose a conflict of interest or conflict of commitment, the employee must complete and file the disclosure form with his or her department head or other supervisor. If the employee is uncertain about his or her disclosure obligation, the employee should review the circumstances with his or her department head or other supervisor prior to making a formal disclosure. In such cases, the department head or other supervisor should then discuss the situation with the policy coordinator. If the department head or other supervisor and the policy coordinator agree that no conflict of interest or conflict of commitment exists, then no formal disclosure is required; however, the policy coordinator should maintain a record of the substance of his or her discussion with the department head or other supervisor. In all other cases, the employee should complete the disclosure form and submit it to his or her department head or other supervisor.

Notwithstanding the above, any University employee who is unsure whether he or she has a disclosure obligation or who has other questions about the policy's application may request advice directly from the policy coordinator without being required to disclose his or her name or identifying details concerning a potential conflict of interest or conflict of commitment. A college, department or other administrative unit may also request advice from the policy coordinator about a potential conflict of interest or conflict of commitment, providing no more identifying information than is necessary for such purpose except as required by law or University policy.

- 38.5.3. Procedure for assessing, eliminating or managing conflicts: The department head or other supervisor, after consulting with the employee, should: (i) sign the disclosure form and, where possible, include

written recommendations of conditions or restrictions which might be used to manage, reduce or eliminate the actual or perceived conflict, and (ii) forward the disclosure form to the dean or appropriate official for written endorsement and/or comment.

Examples of measures that, depending on the facts and circumstances, might be used to manage or resolve conflicts include: (i) monitoring of the outside activity by an independent reviewer; (ii) disqualifying the employee from participating in decisions that might affect the employee's financial interests; (iii) divestiture of the financial interest which creates the conflict; and (iv) severance of any relationships that create the actual or potential conflict.

The disclosure form, along with the recommendations of how the conflict can be managed, reduced or eliminated, should then be submitted to the policy coordinator. If the policy coordinator determines that the proposed resolution or management of the conflict is consistent with applicable University policies, including additional college, department, or other administrative unit policies, if any, the policy coordinator will add his or her written endorsement and/or comments and forward the disclosure form to the President for final approval.

- 38.5.4. Procedure for resolving disagreements: If agreement for managing or resolving the conflict is not obtained among all of the parties participating in the procedures under Section V(3), the policy coordinator will convene an ad hoc advisory committee to review the facts and circumstances and recommend a solution. This committee will consist of a representative appointed by the dean or comparable official, a representative appointed by the chairperson of the Academic Freedom and Ethics Committee, and a third member appointed by the Provost and Executive Vice President for Academic Affairs who will act as chairperson. The policy coordinator will serve as a non-voting ex officio member. The employee has the right to appear before the committee, and/or to provide additional information. Also, the committee may request additional information from the employee and others to aid it in making its findings and recommendations. The written findings and recommendations of the committee will be forwarded to the President who will make the final decision on the matter.
- 38.5.5. Administration and record-keeping: The policy coordinator will administer this policy and maintain records of all filed disclosure forms and associated documents, including, but not limited to, documentation of actions taken by University administrators and committees to eliminate, reduce and/or manage conflicts of interest or conflicts of commitment. All such records will be retained for a period of three years following completion or termination of the activity that prompted the filing of the disclosure form. All employees who file disclosure forms under this policy shall update the information promptly if the circumstances that caused the filing of the disclosure change and shall notify the policy coordinator within thirty days following the cessation of the activity.
- 38.5.6. Enforcement: Employees who violate this policy by either: (i) failing to make a required disclosure of a conflict of interest or a conflict of commitment, or (ii) failing to comply with conditions or restrictions imposed by the University on their outside activities or affairs for the purpose of eliminating, reducing or managing a conflict of interest or a conflict of commitment, may be subject to disciplinary action and appropriate sanctions in accordance with the provisions of the Faculty and Professional Personnel Handbook. If the violation involves a government-funded sponsored program or project, the University may be obligated under federal, state, or local law to report any corrective action taken.

NOTE: The Appendix and Attachments to the policy are available in the departmental offices or the Sponsored Programs Office.

## 38.6. POLICY ON OUTSIDE SERVICES ACTIVITIES<sup>49</sup> AND GHOST EMPLOYMENT

- 38.6.1. **Indiana Ghost Employment Law** – The Indiana Ghost Employment law, with a limited exception which is set forth below, makes it a criminal and civil law offense for Ball State University to employ and pay an employee when that employee is not assigned duties or is assigned duties not related to the operation of the University. Both the supervisor and employment may be subject to criminal and civil penalties for such violations.
- 38.6.2. **Exception to the Indiana Ghost Employment Law** – The Indiana Ghost Employment Law does permit an employee of a governmental entity, such as Ball State University, to voluntarily perform services during the normal hours of employment as long as those services do not:
- 38.6.2.1. Promote religion,
  - 38.6.2.2. Attempt to influence legislation or governmental policy, or
  - 38.6.2.3. Attempt to influence elections to public office;
- And, the services may only occur:
- 38.6.2.4. For the benefit of another governmental entity or a not-for-profit organization exempt from taxation under IRC 501(c)(3),
  - 38.6.2.5. With the approval of the employee’s supervisor, and
  - 38.6.2.6. In compliance with a written policy approved by the governmental entity.
- 38.6.3. **Outside Services Activities of Employees** – Employees may be permitted to perform one or more outside services activities provided that such activities conform to this policy and do not otherwise constitute a conflict of interest or commitment. Employees may be permitted to spend up to a total of Four Hundred and Sixteen (416) university compensable hours in a fiscal year in performing outside services activities for a governmental entity or one or more 501(c)(3) not-for-profit organizations as determined in the sole discretion of and with the prior approval of the employee’s supervisor. In the administration of this policy the University may take any measures in its sole discretion which are reasonable and necessary for the orderly and efficient operation of its business, including but not limited to altering or terminating the outside services activities that have been approved. An employee who performs the university approved outside services activities during normal hours of employment as provided herein shall be considered to be performing duties related to the operation of the University.
- 38.6.4. **Administration and Record-Keeping** – It is the responsibility of the employee to keep a record of the time spent on outside services activities and it is the supervisor’s responsibility to oversee the employee’s record-keeping and to ensure that such records are maintained for audit purposes.
- 38.6.5. **Exceptions**
- 38.6.5.1. The President shall determine the limitation on the total time during any fiscal year and any record keeping requirements that the President and members of the President cabinet may spend on performing outside services activities.
  - 38.6.5.2. It is anticipated that employees in professional and faculty positions will be asked to serve on particular outside boards because of their University related areas of expertise or the offices or positions they hold. “Outside Board” means the board, council, or other

governing or advisory body of a business, educational, civic, professional, or social organization, whether for-profit or not-for-profit. Service on an Outside Board is of particular value to the University and is actively encouraged because of the recognition it provides to the University, and the additional information, exposure, understanding, and insight the person will receive. This service is deemed to be service to the University and need not require the use of a person's own time. This service is considered to be a duty or duties related to the operation of the University. The conflict of interest and commitment policies still apply to any service on an Outside Board.

- 38.6.5.3. The service of officials elected or appointed to public office is not included in the definition of service on an Outside Board and such officials are not eligible to perform the duties of their office during University compensable time under this policy.

## 39. EMPLOYEE BENEFITS

Employee benefits other than salary are explained in the [Benefits Handbook](#).

## 40. PROCEDURES FOR COLLECTING DELINQUENT ACCOUNTS OWED THE UNIVERSITY BY ITS FACULTY/PROFESSIONAL PERSONNEL<sup>50</sup>

- 40.1. This policy applies to the collection of delinquent accounts owed the University by its faculty/professional personnel; accounts may include but are not limited to unpaid charges for:
- 40.1.1. Fines (such as traffic and library fines) and penalties;
  - 40.1.2. Charges for lost or damaged books and other materials; personal telephone calls; use of University facilities; printing, duplicating, and other services rendered by the University;
  - 40.1.3. Unpaid student fees and related charges;
  - 40.1.4. Processing charges for checks returned by banks.
- 40.2. Definitions
- 40.2.1. A "delinquent account" is an account recorded on the University accounts receivable system that contains any charges, not library related, that remain unpaid for a period of 60 calendar days, 97 calendar days if only library related charges, after appropriate hearings and other appeals procedures, if any, have been concluded.
  - 40.2.2. A "paid account" is an account recorded on the University accounts receivable system that has been liquidated.
  - 40.2.3. The "date paid" is the date that final payment, permanently liquidating the account on the University accounts receivable system, is received at the Bursar and Loan Administration's Office.
- 40.3. Procedures--Employees Who Have Delinquent Accounts and Who Fail to Pay Them
- 40.3.1. Withholding employee privileges:
    - 40.3.1.1. The following privileges are to be suspended until the debt is liquidated unless such privileges are already under suspension as a result of previous action: parking privileges when unpaid parking charges are involved; waiving of fees for dependents and for the employee; special assigned leave with pay; assigned leave with pay; leave without pay for study or for government arranged leave.
  - 40.3.2. Recording in personnel files:

A record of the failure to pay the debt is to be made in the personnel file, and this information shall be considered in future employment decisions regarding the employee.

40.3.3. Withholding salary increases:

40.3.3.1. No general pay increases (those generally given annually at the start of the fiscal or academic year) are to be granted and promotions and/or upgrading of positions are to be withheld.

40.3.3.2. If an employee subsequently pays the delinquent account, the salary increase in question, if awarded, will be effective the date that day classes begin for the academic semester or summer sessions next following the date the account is liquidated. The proposed salary increase will be applicable only to the remainder of the contract year and will be prorated accordingly. Likewise, the effective date of the promotion or upgrading will be the date that day classes begin for the academic semester or summer sessions next following the date the account is liquidated.

40.3.4. Prior to registration for classes (employee or dependent) the employee must pay all charges (delinquent or otherwise) except those charges being appealed.

40.3.5. Ten calendar days prior to initiating the foregoing actions a final notice will be delivered personally or mailed (certified mail) to the employee advising of the actions to be taken unless the debt is paid.

40.3.6. To defray the cost of pursuing collection and impose a penalty charge for the account not being paid when due, a delinquency processing and late payment fee in the amount of \$25 is to be assessed and included in the balance owed the University when the account becomes delinquent.

40.3.7. Voluntary Payroll Deduction Loan Program

40.3.7.1. Employees may elect to pay their delinquent account in full by executing a Voluntary Payroll Deduction Loan Program promissory note and payroll deduction authorization to the University within ten calendar days after the date of the final notice. The proceeds of the promissory note will be applied to the delinquent account as of the date executed. The employee will then be subject to the terms of the promissory note. However, should the employee subsequently default in repaying the promissory note, delinquent account collection procedures may be resumed, at the option of the University, as though the delinquent account had not been paid.

40.3.7.2. Interest is to accrue on the unpaid principal balance, until paid, at the Ball State Federal Credit Union one year note loan rate in effect on the date the loan is made plus one percent. A \$10 document processing fee is to be paid to defray the costs of processing the loan and may be included in the loan.

40.3.7.3. The minimum payroll deduction amount is to be \$22 monthly (\$10 biweekly) or .0017 monthly (.000785 biweekly) times gross annual salary/wages rounded up to the nearest dollar, whichever is greater.

40.3.8. At the option of the University, delinquent accounts may be referred to collection agencies or pursued in court.

40.4. Reports to Board of Trustees

Reports of delinquent employee accounts receivable are to be submitted annually to the Board of Trustees setting forth the employee's name and all amounts owed the University including the delinquent portion.

40.5. Responsibility for Administration

It shall be the responsibility of the Vice President for Business Affairs and Treasurer or the Vice President's designee to pursue with due diligence the collection of delinquent employee accounts.