An employee’s failure to report outside activities and financial interests under the University’s Rule 6C1-1.011, F.A.C., an employee’s engaging in the activities or holding the financial interests without the University’s approval, and an employee’s failing to follow any conditions imposed pursuant to the University’s approval of such activities are grounds for disciplinary action. Examples of sanctions are: disallowance or limiting outside activities, changes in assignment, limitations on research activities, fines, reduction in pay, demotion, written reprimand, suspension without pay, and termination for cause. The employee may be required to turn over to the University all or part of the compensation from an unapproved outside activity. If an activity or interest has not been properly disclosed, the employee may be required to disclose the activity or interest in all subsequent presentations of research results. Finally, as noted in the following section, a violation of the State’s Code of Ethics may be grounds for various penalties imposed under state law.

E. Use of University Equipment, Facilities, and Services

Any use of university equipment, facilities or services with regard to an outside activity must be approved prior to the activity. In general, the use of these resources will be allowed only on a noninterference basis, and a charge may be assessed. The form for this purpose is the "Request to Use University Equipment, Facilities, and Services," a copy of which is found in this brochure as Appendix B4.

IV. CODE OF ETHICS FOR STATE OF FLORIDA EMPLOYEES

In formulating the Code of Ethics for employees and officials of the State of Florida, the Florida legislature stated that it "is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law." At the same time the legislature recognized that public officials and state employees should not be "denied the opportunity, available to all other citizens, to acquire and retain private economic interests except when conflicts with the responsibility of such officials to the public cannot be avoided." The Code of Ethics for Public Officers and Employees is designed, therefore, to "protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist."

The Code of Ethics for Public Officers and Employees is set forth in Part III of Chapter 112, Florida Statutes. The Code of Ethics provides standards of conduct for state employees, post-employment restrictions for certain employees, requirements concerning disclosure of financial interests for certain employees, a description of the role of the Florida Commission on Ethics, and penalties and procedures with regard to violations of the standards of conduct. On an annual basis, the Florida Commission on Ethics publishes a brochure entitled "Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees" that outlines the major provisions of the Code. Copies are available from the Commission on Ethics, Post Office Drawer 15709, Tallahassee, Florida 32317-5709. Further information may be found at the Commission's website, http://www.ethics.state.fl.us/.
The penalties that may be imposed against a state employee for infractions of the Code of Ethics include dismissal from employment, suspension without pay, demotion, reduction in salary, forfeiture of a portion of salary, a civil penalty, restitution of benefits received because of the violation, and public censure and reprimand.

The following list of issues highlights various provisions of the Code of particular importance to members of the University of Florida community. It should not be considered as encompassing all applicable laws or as a substitute for reading the wording of the actual laws.

1) Misuse of position

The Code of Ethics prohibits any state employee's corrupt use (or attempted use) of his or her official position to secure a special benefit or exemption for the employee or others.

2) Use of Information

A state employee is not permitted to disclose or use information not available to the general public and "gained by reason of his or her official position" for the employee's "personal gain or benefit or for the personal gain or benefit of any other person or business entity."

For example, this provision is critical in evaluating conflicts that might arise in outside consulting arrangements of faculty members. In such consulting, the faculty member may not disclose unpublished research results or university technology not freely available to the general public to the outside firm.

3) Gifts and honoraria

A state employee is prohibited from soliciting or accepting gifts, loans, or anything of value based upon the understanding that the employee's official action(s) or judgment would be influenced by such a gift. Further, an employee or an employee's spouse or minor child may not accept "any compensation, payment, or thing of value" when such employee knows, "or with the exercise of reasonable care, should know," that it is given to influence official actions of the employee.

Certain state employees called "specified state employees" (or "reporting individuals") and "procurement employees," including many who deal with decisions involving the purchase of goods or services, are restricted from soliciting and accepting gifts, as well as honoraria, from certain individuals or entities. A discussion of these restrictions is found in this brochure as Appendix C2.

4) Doing business with the university, Sections 112.313(3) and 112.3185, Florida Statutes

A state employee acting as a purchasing agent for a state agency, such as the University of Florida, is prohibited from directly or indirectly purchasing, renting, or leasing any real property, goods, or services for the agency from any business entity of which the employee or his or her
spouse or child is an officer, partner, director, or proprietor. If an employee is delegated the responsibility of purchasing realty, goods, or services for the university, the employee is also prohibited from entering into such a transaction with a business entity of which the employee or his or her spouse or child or any combination of them has a material interest. A "business entity" is defined in the law as "any corporation, partnership, limited partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not, doing business in this state." "Material interest" is defined as "direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity." It should be noted that any University of Florida employee authorized to make purchases with a UF Purchasing Card would be considered a purchasing agent and bound by the restrictions set forth in this paragraph.

Any employee acting in a private capacity may not rent, lease, or sell any realty, goods, or services to the University. An employee is acting in a private capacity if he or she owns a material interest in a business entity from which the university rents, leases, or sells realty, goods, or services, if the employee is an officer or director of a corporation selling or leasing to the university, or if he or she acts as an agent of the business to facilitate a sale or lease to the university. The prohibition does not apply when the employee is not in a position at the University which allows him or her to in any way influence the lease or purchase or regulate the services provided.

It should be noted that the provisions of Section 112.313(3) do not affect or prohibit any contracts that were entered into prior to an employee's employment by the university. Further, as noted below under paragraph (6), the law provides exemptions from these requirements in certain cases. If an employee discloses a material financial interest or managerial interest which is allowed as to a particular purchase or purchases, the employee is responsible for insuring that a copy of the approved "Disclosure of Outside Activities and Financial Interests" is attached to each applicable requisition to purchase.

Section 112.3185, Florida Statutes, applies to the procurement of contractual services. It prohibits an employee "who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services" from becoming an employee of a person or entity contracting with the university for the provision of these services. This statute also prohibits a university employee "acting in his or her official capacity" from directly or indirectly procuring contractual services for the university from "any business entity of which a relative" is an officer, partner, director, or proprietor or in which such officer or employee or

3 "Relative" is defined in the law as anyone related to an employee as "father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the 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 from a household," or any other person having the same legal residence as the employee.
his spouse or child, or any combination of them, has a material interest." The law provides no exemptions from the prohibitions of this statute.

5) **Conflicting employment and contractual relationships, Section 112.313(7), Florida Statutes**

A faculty or staff member of the university may not be employed by or have a contractual relationship with a business entity or a state agency which is "doing business" with the university. For example, if a business entity sells services or products to the University, it is doing business with the University. This may preclude a University employee who deals with such procurement from having a contractual relationship with the company. If the entity enters into a research agreement with the university, it is "doing business" with the university. This would preclude a principal investigator from having a contractual arrangement (such as, a consulting agreement) with the company that also sponsors his University research under a contract with the University.

It should be noted that if the university receives a gift (not a contract) from a private entity, that entity would not be "doing business" with the university. If the employee provides volunteer services to a not-for-profit entity, this is not considered an "employment or contractual relationship" with that entity. However, the law also provides that an employee of a state agency, such as the university, may not have or hold any employment or contractual relationship that would create a "continuing or frequently recurring conflict" between the employee's "private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties." This provision may still preclude the activity even though only a gift or volunteer activity is involved.

6) **Exemptions from Section 112.313(3) and (7)**

A transaction otherwise precluded under the prohibition against doing business with one's agency (Section 112.313(3), Florida Statutes) or the prohibition on conflicting employment and contractual relationships (Section 112.313(7), Florida Statutes) may be allowed under one or more of various exemptions provided in the law. The most commonly applied exemptions in the state university setting are:

a) **Competitive bid with disclosure to the Florida Department of State**

If the contract involved is awarded under competitive bids and the employee or his or her spouse or child has not participated in formulating the bid specifications or determining the lowest or best bidders, and the employee or his or her spouse or child has not used or attempted to use his or her influence to persuade the university to enter into such a contract, the contract may be entered into. Prior to the submission of the bid, the employee must file a statement with the Florida Department of State disclosing his or her interest and/or that of his or her spouse or child and the nature of the intended contract.
b) **Sole source purchases**

Similarly, the contract may be allowed if the business entity involved is the sole source of supply and the employee makes a full disclosure of his or her interest in the entity to the university (through a Disclosure of Outside Activities and Financial Interests form) prior to the business being transacted.

c) **Certain goods and services: emergency purchases**

Other exemptions are made for legal advertising in a newspaper, utilities services, and passage on a common carrier (bus, airplane, train, or the like). An employee may also purchase goods or services "at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency." Also exempted are emergency purchases or contracts which must be made in order "to protect the health, safety, or welfare of the citizens of the state."

d) **Transactions of less than $500 in a calendar year**

An exemption is also made if the "total amount of the transactions in the aggregate between the business entity and the agency does not exceed $500 per calendar year."

e) **Research and license agreements**

An exemption is provided which allows a faculty (or staff) member to be a consultant or be otherwise employed by a company or have an ownership interest in a company that is licensing the faculty member's technology from the university. The exemption also allows a faculty member with an employment or contractual relationship with a business entity or an ownership interest in a business entity to be involved in work on a research contract between the university and the business entity. However, such relationships are allowed only with the prior review of the faculty or staff member's department and college and the final approval of the President of the University of Florida and the Chancellor of the State University System.

This exemption was passed to facilitate transfer of university-developed technology to commercial enterprises by making possible license agreements and research contracts with business entities with which the faculty member-inventors have employment or other contractual relationships. Technology transfer is an important ancillary result of the university's research and educational efforts. To assure that the primary mission of the university is not compromised, however, an employee's outside activities with regard to transfer of the university's technology or university research must be disclosed and approved.

The procedures for requesting the research and license exemption are set forth in Appendix B5 (Request for Exemption under Section 112.313(12)(h), Fla. Stat.) of this brochure. In granting the request, the university's interests in protecting the educational progress of students, the integrity of research, the free flow of ideas, the appropriate evaluation of employees, and the use of university equipment and personnel will be examined closely. In
general, the faculty or staff member will be granted the exemption only with his or her agreement to follow certain conditions which allow for appropriate oversight. Please refer to Appendix B6 for a monitoring plan template to assist in the formulation of these conditions. If the exemption is approved, the faculty or staff member's department and college must make significant commitments to the oversight process.

7) Disclosure of Financial Interests and Post-Employment Restrictions, Sections 112.3145, 112.313(9), and 112.3185, Florida Statutes

Certain state officers and public employees ("specified state employees") are required to disclose certain financial interests on an annual basis. These persons are collectively also called "reporting individuals." Reporting individuals include: the university's president and vice presidents, legal counsel, business managers, purchasing agents (persons with signatory authority for contracts) having the power to make any purchase exceeding the Category One threshold amount (currently $15,000), finance and accounting directors, personnel officers, and grant coordinators. A list of "reporting individuals" is provided by the university to the Commission on Ethics on an annual basis. Prior to June 1 of each year, these persons are mailed a copy of Form 1, which indicates the required financial disclosures. The form must be filed with the Commission on Ethics by July 1. New employees in these positions must file within thirty days from the date of appointment. A fine may be imposed if the form is not filed in a timely manner.

Reporting individuals must also abide by restrictions on gifts and honoraria. Please refer to Appendix C2.

Certain university employees are prohibited from personally representing another person or entity for compensation before the university for a period of two years after leaving their positions (unless employed by another state agency). Employees bound by this restriction include the president, vice presidents, and deans.

Any former employee is barred from having an employment or other contractual relationship with any business entity in connection with a contract in which the employee participated personally and substantially by recommendation or decision when he or she was a university employee. A former employee is also prohibited from having any employment or contractual relationship for two years with any business entity in connection with a contract for services which was within his or her responsibility while serving as a university employee.

V. CONCLUSION

The outside activities of University of Florida faculty and staff members are often of great value to the community as a whole and further the mission of the university. They also may serve important personal interests. These activities are of concern to the university when they interfere with the faculty member or staff member's obligations to the university. Indeed, all members of the University of Florida community must be concerned that the university's mission not be compromised through the outside activities and interests of its faculty and staff members. Thus, the university's policies and procedures are designed to encourage allowed
activities while providing for the disclosure, review, and oversight, if needed, of activities in which conflicts might occur. The primary responsibility for compliance and for furtherance of these goals rests with the individual faculty or staff member.