

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
SCP-2562**

SUBJECT: Other Employment and Certain Volunteer Activities

REFERENCE: W. Va. Code §§ 6B-1-1, et seq. and 18B-2A-4 and-135 C.S.R. 9, *Academic Freedom, Professional Responsibility, Promotion, and Tenure*

ORINATION: November 1, 1984

EFFECTIVE: March 19, 2019

REVIEWED: April 12, 2024

SECTION 1. PURPOSE

1.1 The purpose of this policy is to provide standardized procedures for determining whether employment outside the College and certain volunteer activities may violate the West Virginia Governmental Ethics Act, W. Va. Code § 6B-1-1, et seq., and/or the Council for Community and Technical College’s (Council’s) rule entitled *Academic Freedom, Professional Responsibility, and Tenure* rule, 135 C.S.R. 9, which prohibits a faculty member from engaging in other employment or volunteer activities that conflict with the employee’s primary employment with Southern West Virginia Community and Technical College (College).

SECTION 2. SCOPE AND APPLICABILITY

2.1 This policy applies to all full-time faculty and professional employees of Southern West Virginia Community and Technical College.

SECTION 3. DEFINITIONS

- 3.1 “Other employment” or “secondary employment” means any form of employment or business relationship outside an employee’s primary employment with the College involving the provision of personal services by the employee and from which the employee receives compensation.
- 3.2 “College employment responsibilities” include both “primary duties” and “secondary duties.” Primary duties consist of assigned teaching, scholarship, and all other institutional service requirements. Secondary duties consist of professional affiliations and activities traditionally undertaken by faculty and other professional staff members outside of the immediate College employment context that redound to the benefit of the profession and to higher education in general. Such endeavors, which may or may not entail the receipt of honoraria or the reimbursement of expenses, include membership in and service to professional associations and learned societies; membership on professional review or advisory panels; presentation of lectures, papers, concerts or exhibits; participation in seminars and conferences; reviewing or editing scholarly publications and books; and service to accreditation bodies. Such integral manifestations of one’s membership in a profession are encouraged, as extensions of College employment, so long as they do not conflict or interfere with the timely and effective performance of the individual’s primary College duties.
- 3.3 “Faculty or other professional staff members” means any person who is employed full-time by Southern West Virginia Community and Technical College and is exempt from overtime requirements of the Fair Labor Standards Act.

- 3.4 “Inappropriate use or exploitation of College resources” means using any services, facilities, equipment, supplies, or personnel that members of the general public may not freely use. A person engaged in other employment may use, in that connection, publicly accessible facilities such as College libraries; however, an employee may not use his or her office for any activity undertaken as part of his or her other employment. Under no circumstances may a supervisory employee use the services of a supervised employee during or outside of such supervised employee’s College employment time to advance the supervisor’s other employment.
- 3.5 “Conflict of interest” relates to situations in which financial or other personal considerations may compromise, may have the potential for compromising, or may have the appearance of compromising an employee’s objectivity in meeting College duties or responsibilities, including grant activities.
- 3.6 “Volunteer activity” means any type of volunteer activity involving the provision of personal services by the employee to the benefit of another person, group, or organization and from which the employee receives no compensation or social gain.

SECTION 4. POLICY

- 4.1 Southern West Virginia Community and Technical College seeks to appoint and retain, as faculty and other professional staff members, individuals of exceptional competence in their respective fields of professional endeavor. Because of their specialized knowledge and experience, such persons have opportunities to apply their professional expertise to activities outside of their College employment, including secondary employment consisting of paid consultation with or other service to various public and private entities. Through such practical, compensated applications of their professional qualifications, College employees enhance their own capabilities in teaching and professional development. Thus, the participation of faculty and other professional staff members other employment or volunteer activity, typically in the form of consulting, is an important characteristic of academic employment that often leads to significant societal benefits, including economic development through knowledge and technology transfer. However, such other employment or volunteer activities may be undertaken only if they do not:
- 4.1.1 Create a conflict of commitment by interfering with the obligation of the individuals to carry out all primary College duties in a timely and effective manner;
 - 4.1.2 Create a conflict of interest vis-a-vis the individual’s status as an employee of the College;
 - 4.1.3 Involve any inappropriate use or exploitation of College resources;
 - 4.1.4 Make any use of the name of Southern West Virginia Community and Technical College for any purpose other than professional identification; or
 - 4.1.5 Claim, explicitly or implicitly, any College or institutional responsibility for the conduct or outcome of such activities.
 - 4.1.6 An employee shall not use the primary employment with the State to motivate or provide preferential treatment to any person involved with the other employment or volunteer activities because of services being rendered to their family members.
 - 4.1.7 If applicable, an employee must respond to any on-call demands of his or her primary employment with the State as directed by their supervisors during periods in which they are engaged in other employment or volunteer activity.
- 4.2 The institution expects its employees to give full professional effort to assignments of teaching and/or institutional service. Therefore, faculty and other professional staff shall not engage in other employment or

volunteer activities that are incompatible with the employee's commitment to the institution. Further, faculty and other professional staff shall not transact personal business from their institutional offices or use College equipment for the same.

- 4.3 No employee may conduct personal for-profit business or enterprises on College premises. This restriction includes telephone calls, developing or answering correspondence, or receiving personal business guests on College property at any time.
- 4.4 Solicitation by employees for purposes other than direct College-related business during regularly scheduled work hours is prohibited. Solicitation during non-work hours (lunch or other break times) by employees is subject to other applicable policies of the institution.

SECTION 5. BACKGROUND OR EXCLUSIONS

- 5.1 None.

SECTION 6. GENERAL PROVISIONS

- 6.1 Conflicts of interest tend to involve private financial arrangements, and conflicts of commitment generally refer to time and energy. While conflicts of commitment are a distinct concept from conflicts of interest, the two often overlap and, at times, may be difficult to separate. This policy is intended to bring attention to the outside employment and volunteer activities of employees of the institution and allow a reporting mechanism to ensure these activities will not interfere with the full-time service commitment to the institution.
- 6.2 Any person who is employed by the College as a member of the faculty or professional staff and who is engaged in teaching, research, consulting, or publication activities in his or her field of expertise with public or private entities and thereby derives private benefits from such activities is exempt from the prohibitions contained in W. Va. Code § 6B-2-5(b), (c), and (d) when the activity is approved as part of an employment contract with the College's Board of Governors or the activity has been approved by the employee's department supervisor or the President or his or her designee.

SECTION 7. RESPONSIBILITIES AND PROCEDURES

- 7.1 The appointment of a person to a full-time position at Southern West Virginia Community and Technical College is made subject to the following conditions:
 - 7.1.1 The employee shall render full-time service to the institution. Outside activities shall not be restricted unless such activities or employment interfere with the adequate performance of college employment responsibilities or violate the West Virginia Governmental Ethics Act ("Ethics Act").
 - 7.1.2 If outside employment or service interferes with regular college employment responsibilities of the employee or may violate the Ethics Act, the institution has a right to take appropriate corrective action as warranted by the situation and rules and policies of the institution, up to and including disciplinary action.
- 7.2 Annual Review
 - 7.2.1 All faculty and professional staff shall verify their status regarding other employment or certain volunteer activity annually by completing the appropriate form (SCP-2562.A, *Other Employment and Certain Volunteer Activities Report*). This form is due to Human Resources by August 31. If a faculty or professional staff member undertakes other employment or certain volunteer activity after the annual reporting date, he or she shall complete the form not less than 10 calendar days before the date the proposed other employment or certain volunteer activity is to begin.

7.2.2 The supervisor will review and discuss the completed form and policy with the employee to ensure no conflict of commitment or interest or violation of the Ethics Act exists, sign the form, and forward it to Human Resources for review.

7.2.3 The signed form shall be placed in the employee's personnel file.

7.4 Standards. – The College shall consider the following factors when determining if a review of other employment or certain volunteer activity is required by the West Virginia Ethics Commission. A request for a determination is not required for certain volunteer activities that clearly do not conflict with the interests of the College and have no nexus to the duties of the primary State employment. These activities include, but are not limited to, participation in non-partisan civic organizations, philanthropic activities, social clubs, athletics, and religious organizations.

7.4.1 An employee is required to obtain an Ethics Opinion if the College has reason to believe:

7.4.1.1 The other employment or volunteer activity is with a person or business over which the employee directly, or through subordinates, exercises authority in the employee's official capacity as a State employee; or

7.4.1.2 The employee could access or use confidential College information for the benefit of the other employer or volunteer activity.

7.4.2 The West Virginia Ethics Commission has determined an Ethics Opinion is not required in instances where an employee desires to perform services for multiple State employers. However, the College must still evaluate the request to ensure that while working for the College (the employee's primary State employment), the employee does not perform work for other State employers in violation of the Ethics Act's prohibition against double-dipping. Prior to commencing employment with a second State employer, an employee must consult with both entities' human resources, as multiple appointments affect compensation and benefits at each State entity. The position in which the employee is budgeted at a full-time equivalent (FTE) of 1.0 shall be identified as the employee's primary position. In the event the employee holds two FTE or two part-time positions, the primary position shall be the position in which the employee was first employed.

7.4.3 The College shall deny the request for other employment or certain volunteer activity if the Ethics Commission issues an Ethics Opinion determining that a conflict exists between the employee's primary employment with the State and the requested other employment or volunteer activity.

7.4.4 If the Ethics Opinion is inconclusive, the College may deny the request for other employment or certain volunteer activity if the College has reason to believe:

7.4.4.1 The other employment or volunteer activity may conflict or give the appearance of a conflict with the mission and goals of the College;

7.4.4.2 The other employment or volunteer activity may interfere with the performance of the employee's official duties;

7.4.4.3 The employee will use or appear to use information obtained in connection with the employee's official duties and which is not generally available to the public; or

7.4.4.4 The other employment or volunteer activity may reasonably be regarded as official State action.

SECTION 8. CANCELLATION

8.1 None

SECTION 9. REVIEW STATEMENT

9.1 This policy shall be reviewed on a regular basis with a time frame for review to be determined by the President or the President’s designee. Upon such review, the President or President’s designee may recommend to the Board that the policy be amended or repealed.

SECTION 10. SIGNATURES

President **Date**

Attachments: SCP-2562.A, External Professional Activities for Pay Report Form

Distribution: Board of Governors (12 members)
www.southernwv.edu

Revision Notes: September 2008 - Revisions reflect no substantial changes in procedure or documentation requirements. However, coverage was expanded from only full-time faculty to all full time exempt professional employees of the institution. Definitions were added and more clarity was provided to provide explanation of the meaning of conflict of interest. The form for reporting was modified to indicate the specific outside employment activity.

November 2013 - Revisions reflect correction to Procedural Rule institutional reference, but no substantial changes in procedure or documentation requirements.

November 2018 - Minor revisions were made to annual review process for external professional activities to correspond with the requirements set forth in SCP-2562.A.

April 2024 – Revisions reflect requirements of the West Virginia Governmental Ethics Act related to employment of faculty members and other professional staff and includes a new Section 7.4 on Ethics Opinion.