April 20, 2006

MEMORANDUM

TO: Academic Council

FROM: Ross Emmett, Chairperson
University Committee on Faculty Affairs

SUBJECT: Outside Work for Pay and Overload Pay Policies

On April 11, 2006 Faculty Council passed the Outside Work for Pay and Overload Pay policies recommended by the University Committee on Faculty Affairs. The policies are being brought forward to the Academic Council for approval at the April 25, 2006 meeting. Attached to the policies are a summary of the substantive changes to these policies, and the form one would use to notify unit heads of activities covered by the policies. During duty periods (for most faculty, the duty period is August 16 to May 15 each year), unit heads must not only be notified, but must authorize such activities.

During the course of the Faculty Council meeting a number of questions were raised regarding the definitions of "work" and "pay." Subsequent to its passage of the motion, Faculty Council also approved a motion that asked UCFA to examine the language of the policy again, and to construct a guide for faculty use. That motion did not ask that the policy before you be delayed in its progress toward Board approval.

RE/jh
March 28, 2006

MEMORANDUM

TO: John Stricklen, Chairperson
    Executive Committee of Academic Council

FROM: Dr. Emmett Ross, Chairperson

SUBJECT: Outside Work for Pay and Overload Pay Policies

On March 21, 2006, the University Committee on Faculty Affairs (UCFA) endorsed revisions to the University's Outside Work for Pay and Overload Pay policies. Attached are copies of those revised policies. In addition, commentary is provided regarding the main changes to the policies.

A copy of the revised Outside Work for Pay/Overload Pay form is also attached. The form is sent for your information but not for action.

I ask that the revised policies be placed on an early agenda of a Faculty Council meeting and for subsequent consideration by the Academic Council and the Michigan State University Board of Trustees.

Attachments
The following provides a brief summary of the main, substantive changes to the Outside Work for Pay and Overload Pay policies.

**Outside Work for Pay**

1. The revised policy includes executive managers and academic administrators within its coverage. This will allow for the elimination of a separate and largely identical executive management policy regarding outside work for pay.

2. The revised policy clarifies that unpaid outside work is not regulated by this policy.

3. The revised policy clarifies that faculty members with an appointment of less than 50% time are not subject to the policy.

4. The revised policy sets a limit of an average of 4 days per month of outside work for pay and overload pay rather than the current policy limit of 32 hours per month.

5. The revised policy provides for a more “up to date” definition of “pay.”

6. The revised policy clarifies that those activities expected of faculty as part of their normal scholarly activities (such as presentations at scholarly meetings, leadership in professional societies, preparation of scholarly publications) are not regulated by the policy, even if a faculty member receives renumeration.

7. The revised policy provides a mechanism for an individual or group to seek an exemption from the provisions of the policy.

8. The revised policy clarifies that outside work for pay cannot violate University policies.

9. The revised policy clarifies that outside work for pay performed during duty periods must be of a professional nature.

10. The revised policy makes clear that a unit administrator must provide written reasons if denying or terminating approval for outside work for pay and under what circumstances that decision is subject to the Faculty Grievance Procedure.
Outside Work for Pay, continued

11. The revised policy sets forth the parameters for performance of outside work for pay during non-duty periods. (The current policy is silent on this issue.) Pursuant to the revised policy, outside work for pay performed during non-duty periods does not need to conform to the same limitations as outside work for pay performed during duty periods. Rather, it is subject only to the requirements that it not adversely affect the University's interests, violate University policy, or attempt to circumvent University policies. Finally, outside work for pay performed during non-duty periods does not require prior approval; rather, the faculty member need only provide notice of the outside work to the relevant administrator.

12. The revised policy references the University's policies regarding intellectual property, whereas the current version is silent on that issue.

13. The revised policy allows for the use of University facilities, supplies, material, equipment, personnel, and services, whereas the current version contains a blanket prohibition against such use.

14. The revised policy clarifies the expectation that faculty should distinguish outside work for pay from their work at MSU and that the University does not sponsor or endorse the outside work.

Overload Pay Policy

1. The revised policy includes executive managers and academic staff.

2. The revised policy allows faculty and academic staff to request and receive overload pay for research and academic and student support services. The current policy does not include those activities.

3. The revised policy has been made consistent with the OWP policy to allow for a total average of 4 days per month rather than 32 hours of outside work for pay and overload pay.
Current Policies are on the HR website at:

Outside Work for Pay:  
http://www.hr.msu.edu/Hrsite/Documents/Faculty/Handbooks/Faculty/AcademicPersonnelPolicies/iv-outside_work

Overload Pay:  
http://www.hr.msu.edu/Hrsite/Documents/Faculty/Handbooks/Faculty/AcademicPersonnelPolicies/iv-overloadpay
Michigan State University

OUTSIDE WORK FOR PAY/OVERLOAD PAY

Name ___________________________________________ Date ______________________

Last, First, Middle

Position/Rank __________________________ Title (if any) ____________________________________________________________________________

Primary Department Name __________________________________________________________

Code ________________ Second Department Name __________________________ Code ______

Other Department Name __________________________________________________________

Code ________________ Other Department Name ________________________________________

Code ________________ Other Department Name ________________________________________

Code ________________

Primary College Name ____________________________________________________________

Code ________________ Second College Name _________________________________________

Code ________________ Other College Name ___________________________________________

Code ________________ Other College Name ___________________________________________

Code ________________

☐ OUTSIDE WORK FOR PAY

1. This work will be performed for __________________________ (name of firm, agency, etc.)

during the period* from ______________ through ______________ and will involve an estimated
total of _______ days during the period specified.

☐ This work will be performed for an entity or individual for which or whom University research has also been conducted.

2. General description of work:

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

3. Explanation of how the work will enhance the faculty member’s expertise as a teacher and scholar in his/her discipline:

(not required for work performed during non-duty periods)

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

4. Indicate whether the work will involve any of the following:

☐ Use of University facilities, supplies, materials or equipment.

☐ Use of University intellectual property.

(such as University owned patents, copyrights, trademarks, or proprietary information)

☐ Use of University employees.

☐ Participation by or payment to University students.

☐ Research involving animals, human subjects, or radioactive, hazardous or other regulated materials.

*If any of these boxes are checked, additional information must be provided prior to approval.

Continued on back page

5. Indicate, to the best of your knowledge, whether the work will do any of the following:
Delay or otherwise impede the future publication of research by the faculty member, another University employee, or a University student.
Involve the creation of intellectual property.
Compete with functions, products, or services offered by the University.

*If any of these boxes are checked, additional information must be provided prior to approval.*

☐ OVERLOAD

1. This work will be done for
   Department Name ____________________ Code ____________________
   College Name ____________________ Code ____________________
   during the period* from ______________ through ______________
   and will involve an estimated total of __________ days during the period specified.

I agree that this work will be done in conformity with the MSU Board of Trustees Policies on Outside Work for Pay and/or Overload Pay. I further agree that the information provided on this form is accurate and that I will immediately advise my direct supervisor of any subsequent change which makes any of the information inaccurate.

Employee's Signature ____________________ Date ____________

*Outside work for pay performed during non-duty periods does not require the approval of the Chairperson/Director or Dean/Separately Reporting Director.*

Primary Chairperson/Director Date ____________________
Second Chairperson/Director Date ____________________
Other Chairperson/Director Date ____________________

Primary Dean/Adm. Head Signature ____________________ Date ____________
Second Dean/Adm. Head Signature ____________________ Date ____________
Other Dean/Adm. Head Signature ____________________ Date ____________

1. This form must be initiated by the faculty member and approved by the Chairperson/Director and Dean/Separately Reporting Director before the outside work assignment or overload assignment is authorized.
2. The Chairperson/Director and Dean/Separately Reporting Director shall each retain a copy of the form.

* The beginning and ending dates on any one form must be in the same fiscal year. If the consulting/overload period extends into another fiscal year, a new form should be filed at the beginning of the new fiscal year.
OUTSIDE WORK FOR PAY

I. Policy Overview

Full-time faculty members are compensated for full-time professional effort for the University. Faculty may have duties in instruction, research, or outreach, or in a combination of these areas. Regardless of the character of the faculty member’s duties, the University expects that each full-time faculty member will carry a reasonable and full-time load, assuming a proper share of the total functions and responsibilities of the department/school, college, and University. Within this framework, the University recognizes that, through consulting and other relationships with government, industry, not-for-profit organizations, and others outside the University, its faculty members can make valuable contributions off campus while enhancing their expertise in their discipline.

This Policy is intended to protect the integrity of the faculty-University professional relationship, to ensure that approved outside work for pay is consistent with the University’s mission, and to provide that faculty members remain accessible to students, colleagues, and the public.

II. Applicability

This Policy applies to all faculty members (tenure system and fixed term) at the rank of instructor through professor who hold appointments of at least 50% time. Faculty appointed less than full-time are not eligible to perform outside work for pay during regular University duty periods. With the exception of the approval process, outside work for pay performed during non-duty periods is subject to the remaining provisions of this Policy.

Certain activities are expected of faculty members as part of their normal scholarly activities and are not regulated by this Policy (even if a faculty member is paid to do them by a person or entity other than the University). These include, but are not limited to:

- presentations at professional meetings and other similar gatherings
- peer review of articles and grant proposals
- leadership positions in professional societies

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1This Policy does not apply to unremunerated outside activities, whether of a charitable or professional nature. However, faculty members are expected to arrange their outside activities so as to avoid conflicts of commitment. A “conflict of commitment” occurs when the time and attention a faculty member devotes to outside activities interferes with the performance of his/her responsibilities to the University.

2Executive managers (senior level University administrators, including associate and assistant vice presidents and specified directors) and academic administrators (e.g., deans, department chairs, and school directors) are also subject to this Policy and must obtain prior written approval from their direct supervisor before engaging in outside work for pay.

3A faculty member or unit administrator may (1) request an individual or group exemption from specific provisions of this Policy, or (2) request that a particular activity or type of activity be exempt from this Policy. Such requests must be approved in writing by the applicable department chair/director and dean/separately reporting director and by the Provost or his/her designee. Failure to request or receive exemption approval in writing results in coverage of the activity under this Policy.
• preparation of scholarly publications
• editorial services for educational or professional organizations
• service on advisory committees or evaluation panels for government funding agencies, nonprofit foundations, or educational organizations
• musical and other creative performances and exhibitions, if there is an expectation in the faculty member's discipline that he/she will engage in such performances or exhibitions.

III. **Limitations on Performing Outside Work for Pay During Duty Periods**

Faculty members may request approval to engage in outside work for pay during duty periods if all of the following conditions exist:

1. All approved outside work for pay and overload pay assignments for the faculty member will not exceed a total average of four (4) days a month.

2. The work in question will enhance the faculty member's expertise as a teacher and scholar in his/her discipline.

3. The work will not interfere with the performance of the faculty member's University duties, including those non-classroom responsibilities expected of all faculty members.

4. The work will not adversely affect the University's interests or violate University policies or regulations.

5. The work will be of a professional nature.

IV. **Definitions**

1. "Outside work" is any work performed for a person or entity other than Michigan State University.

2. "Work" is any service or activity in the general area of expertise for which the faculty member is employed by the University. Examples of work include, but are not limited to, consulting, advising, research, demonstrating, performing, outreach, or teaching in the faculty member's discipline.

3. "Pay" is anything of value received in consideration for work (except reimbursement of expenses, indemnification, or insurance coverage for claims arising out of or occurring in connection with the work). Examples of pay include, but are not limited to, any salary, fee, honorarium, stock, stock option, monetary gift or contribution beyond actual expense, or the promise of any of these in the future. Work for any business or other for-profit enterprise owned or operated by a faculty member or by his/her relative(s), shall be considered "pay" (whether or not the faculty member receives anything of value in consideration for the work) because of the likelihood that the faculty member's work will increase the value of the business or enterprise to the faculty member's direct or indirect
V. Required Approval

1. A faculty member must request and obtain the written approval of his/her unit administrator and dean/separately reporting director before engaging in outside work for pay. (See the Outside Work for Pay Authorization form.)

2. University administrators to whom the Authorization Form is submitted may seek additional information or clarification from the faculty member regarding the proposed outside work for pay.


4. If a request to engage in outside work for pay is denied, the unit administrator shall provide the faculty member with written reasons for the denial. A faculty member may not challenge a decision to deny approval for outside work for pay through the Faculty Grievance Procedure unless the faculty member alleges that the denial is contrary to University policy or established practice.

5. Each dean/separately reporting director shall keep Authorization Forms submitted by faculty on file for at least three years.

6. Each dean/separately reporting director shall submit annual reports to the Office of the Provost concerning the outside work for pay performed by faculty in that college/administrative unit. The reports shall not identify individual faculty by name.

VI. Non-Duty Periods

Faculty who hold academic year appointments or part-time appointments of at least 50% time may engage in outside work for pay during non-duty periods if the work does not adversely affect the University’s interests, violate University policies or regulations, or circumvent University policies or regulations that would apply if the work was performed during the duty period. The University does not limit the amount of time faculty may spend on outside work for pay at times other than their duty periods.

A faculty member must provide written notice to his/her unit administrator prior to engaging in outside work for pay during non-duty periods by submitting an Outside Work for Pay Authorization form.

VII. Intellectual Property

The University’s policies regarding intellectual property are applicable to faculty members engaging in outside work for pay.
VIII. **Indemnification**

Outside work for pay is not covered under the University’s Indemnification Policy or its Travel Accident Plan.

IX. **Other Provisions**

1. Faculty may use University facilities, supplies and materials, equipment, services, or employees for outside work for pay, but only if (a) such use would not be contrary to University policy or collective bargaining agreements, (b) such use would not adversely affect the use or availability of such facilities, supplies and materials, equipment, services, or personnel for unit and other University activities and operations; and (c) the University is reimbursed in full for the fair market value of the use of the facilities, supplies and materials, equipment, services, or employees.\(^1\)

2. If a faculty member seeks to use intellectual property owned by the University in outside work for pay, the unit administrator must consult with the Office of Intellectual Property before the outside work for pay may be approved or performed. The purposes of this consultation are to avoid violation of third party licenses, to prevent loss of patent rights through premature public disclosure, and to preserve the rights of other authors or inventors.

3. When engaged in outside work for pay, faculty members must make it clear that (a) they are acting in their individual capacities and not on behalf of the University; and (b) that the University does not endorse, sponsor, or support the outside work. A faculty member may use his/her University title when signing reports and letters pertaining to outside work for pay so long as it is clear that the University title is used solely to document his/her professional credentials. Official University letterhead shall not be used in outside work for pay.

4. Faculty members shall not divert to outside work for pay research or teaching opportunities that might reasonably be offered to the University, nor should they knowingly participate in outside work for pay that might compete with the University’s programs.

5. The involvement of University students or staff (especially those for whom the faculty member has oversight responsibilities) in a faculty member’s outside work for pay must be disclosed and may require monitoring.

6. Approval for outside work for pay is subject to termination at any time the University considers such action to be advisable. Written reasons for the decision to terminate approval will be provided to the faculty member by his/her unit administrator. Decisions

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\(^1\) Faculty using University facilities, supplies and materials, services, or equipment for outside work for pay do not need to reimburse the University for the fair market value of the use if it is a *de minimis* incidental use which imposes no, or little, additional cost or expense on the University.
to terminate approval for outside work for pay are not disciplinary action. A faculty member who wishes to challenge a decision terminating outside work for pay through the Faculty Grievance Procedure must allege that the termination is contrary to University policy or established practice.

7. When involvement in outside work for pay substantially interferes with a faculty member’s performance of his/her University duties, the faculty member’s unit administrator may issue an administrative warning to the faculty member or the faculty member and his/her unit administrator may arrange by mutual agreement a voluntary unpaid leave of absence or a reduction in the faculty member’s appointment. Voluntary leaves of absence should normally not exceed six months, and the frequency and duration of leaves of absence should not impair a faculty member’s contributions to the University.

8. Violation of this Policy may be the basis for discipline under applicable University policies.

9. Individual colleges or other units may establish lower maximum time limits for outside work for pay than those stipulated in this Policy and may promulgate guidelines and impose reporting requirements for outside work for pay in addition to those set forth in this Policy.

X. Applicability to the Medical Colleges

Faculty in the Colleges of Human Medicine, Nursing, and Osteopathic Medicine may engage in outside work for pay pursuant to this Policy, provided that, if the outside work for pay includes patient care or administrative or consulting activities significantly related to, but not directly involved in, the provision of patient care, the income derived therefrom is subject to the provisions of the Michigan State University Practice Plan. Faculty in the College of Veterinary Medicine may engage in outside work for pay pursuant to this Policy, provided that private practice by faculty in the College of Veterinary Medicine may occur only in accordance with College of Veterinary Medicine policy, and provided further that, if a practice plan is established for the College of Veterinary Medicine in the future, any income derived by a faculty member of the College of Veterinary Medicine from private practice will be subject to the provisions of that practice plan.
OVERLOAD PAY

I. Applicability

This Policy applies to full-time faculty members (tenure system and fixed term) at the rank of instructor through professor, full-time academic staff (including specialists, librarians, and extension field service staff), full-time executive managers, and full-time academic administrators (e.g., deans, department chairs, and school directors).

II. Overload Pay

Faculty and academic staff may request approval for overload pay for overload assignments related to teaching, research, outreach activities, and academic and student support activities. Executive managers and academic administrators may request approval for overload pay for overload assignments related to their administrative duties and/or expertise.¹

III. Required Approval

1. Overload pay assignments require prior written approval (a) by the immediate supervisor of the individual who will undertake the proposed overload pay assignment; (b) by the administrator of the major administrative unit (“MAU”) in which that individual is appointed; and (c) if the unit in which the overload pay assignment is to be performed is different from the unit in which the individual is appointed, by the administrator of, and the MAU administrator for, the unit in which the overload pay assignment is to be performed.

2. In order to be approved, an overload pay assignment must meet the following minimum criteria:

a. The individual requesting overload pay must have a full-time assignment in her/his department, school, or other administrative unit and be satisfactorily performing her/his assigned duties; and

b. The individual’s immediate supervisor, after consultation with the administrator of the MAU in which the individual is appointed, must determine that:

(i) the proposed assignment represents a substantial increase over the individual’s regularly assigned duties; and

(ii) after considering the other commitments of the individual, including her/his regularly assigned duties, approved outside work for pay, and other professional obligations, the proposed assignment will not adversely affect the individual’s performance of her/his regularly assigned duties.

¹ In accordance with the policy on Outside Work for Pay, faculty, executive managers, and academic administrators may request approval to engage in overload pay and/or outside work for pay for up to a total average of four (4) days per month during duty periods. Academic staff (who are not eligible to engage in outside work for pay) may request approval to engage in overload pay for up to an average of four (4) days per month.
3. The approval of each overload pay assignment must be recorded on the Overload Pay form.

IV. **Summer Appointments**

Faculty and academic staff members appointed on an academic year basis may have part-time or full-time summer appointments in teaching, research, and/or outreach. The salary for such a summer appointment may not exceed 3/9 of the faculty or academic staff member’s salary during the previous academic year. These summer appointments are not considered overload pay assignments and are not subject to this Policy. However, faculty and academic staff members who hold full-time summer appointments are also eligible for overload pay assignments during the summer if such assignments are made pursuant to this Policy.

V. **Other Provisions**

1. The Office of the Provost shall provide an annual summary of overload pay disbursements made during the prior fiscal year to appropriate MAU administrators.

2. In recognition of collegial expectations usual in a community of scholars, University units may not pay honoraria to faculty members, academic staff, executive managers, or academic administrators for talks, seminars, etc., provided in usual classroom/seminar settings.

3. Individuals performing overload pay assignments pursuant to this Policy remain subject to the same University policies and procedures as are in effect during the performance of their regularly assigned duties.

4. Assignments which might normally justify the payment of overload pay may, by mutual agreement, be compensated for by subsequent release time for research, the assignment of additional graduate assistants / other support staff, or other forms of programmatic / professional support instead of by overload pay.

5. Major administrative units may establish lower maximum time limits for overload pay than those stipulated in this Policy.