# 38. CONFLICT OF INTEREST AND OUTSIDE PROFESSIONAL ACTIVITY POLICY

## 38.1 INTRODUCTION

State laws governing ethics and conflicts of interest are based on the premise that public employees are acting on behalf of government for the benefit of the public. As public employees of an institute serving the educational and public purposes of teaching, research, and professional service, there is an obligation to conduct research and official duties on behalf of the Institute in such a manner consistent with statutes and regulations. The avoidance of conflict of interest is vital to ensuring the integrity and objectivity in conducting and reporting research.

The purpose of this policy is:

- To set forth acceptable parameters relating to possible conflicts of interest which may arise from the outside professional activities of an Institute Employee;
- To define and establish a mechanism to reduce, eliminate, or manage a situation that may pose a real or potential Conflict of Interest;
- To ensure the integrity of research, education or business transactions of the Institute and to identify real or potential Conflicts of Interest;
- To articulate activities that would be prohibited.

This policy applies to all Institute Employees, including Emeritus faculty, visiting faculty and scientists, adjunct faculty, affiliates and Tech Temps. It applies to students and trainees if they are involved in the design, conduct or reporting of research at the Institute.

Penalties for non-compliance with this policy are outlined in Section 38.6.

## 38.2 DEFINITIONS

Definitions as used in this policy, the term:

1. "Agency" means any agency, authority, department, board, bureau, commission, committee, office or instrumentality of the State of Georgia.
2. "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, trust or other legal entity.

3. “Conflict of Commitment” occurs when an Employee undertakes external commitments which burden or interfere with the Employee’s primary obligations to the Institute. Conflicts of Commitment may arise out of consulting arrangements or with an entrepreneurial interest when a faculty member is involved in a startup company.

4. "Conflict of Interest" means any situation in which:
   
   (a) It reasonably appears that a significant financial interest could affect the design, conduct, or reporting of activities funded or proposed for funding by a sponsor; or
   
   (b) The personal interest of an Employee or his or her Family may prevent or appear to prevent the Employee from making an unbiased decision with respect to the Employee’s employment with the Institute.

Illustrative examples of such situations include, without limitation, the following situations:

- The Employee, or a member of his or her Family, has a significant financial interest in a business which transacts business with the Institute.
- The Employee, or a member of his or her Family, has a significant financial interest in an entity that competes or may compete with the Institute for sponsored activities.

5. “Conflict of Interest Review Committee” shall mean an advisory committee to the Executive Vice-President for Research that shall be composed of the Chief Legal Counsel, the Vice-President for Research, a representative for the student body, and a member of the general faculty appointed by the Executive Board of the Institute. In absence of a standing Committee the Executive Vice-President for Research shall appoint an ad hoc committee as dictated by the circumstance.

6. “Conflict of Interest Management Office” (COI Office) shall mean the central office designated by the Institute to review all disclosures that present actual or perceived conflicts of interest. The COI Office works with the COI Review Committee and the Responsible Unit Official to ensure that any conflicts of interest are reduced, managed, or eliminated in conjunction with federal, state, and local regulations and Institute policy.

7. "Consulting" means any professional activity related to the person’s field or discipline (e.g. consulting, speaking, scientific advisory boards, paid attendance at company meetings, expert witness services, etc), where a fee-for-service or equivalent relationship with a third party exists. Consulting includes organizing or operating any educational program outside Georgia.
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<tr>
<th>Institute of Technology.</th>
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<td>8. &quot;Employee&quot; includes all Institute personnel who receive salary or wages from the Institute. Students and trainees are included if they receive pay from the Institute. Also included, by way of example without limitation, are Visiting Faculty and Scientists, Professors of the Practice, Affiliates, Adjunct Faculty, Emeritus Faculty (if they are engaged in part time work for pay), and Tech Temps.</td>
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<td>9. &quot;Family&quot; means spouse or partner and dependent children [Georgia Official Code 45-10-20] and anyone who could reasonably be assumed to be family in the context of situations in which there may be the appearance of a Conflict of Interest stemming from an action of an Employee in combination with such persons.</td>
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<td>10 &quot;Full-time&quot; means 30 hours or more of work for the state per week for more than 26 weeks per calendar year.</td>
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<td>11. &quot;Individual Conflicts&quot; means a Conflict of Interest that arises when an Employee has the opportunity to influence research, academic or Institute decisions in ways that could lead to personal financial gain. The financial gain may be derived from owning stock in a company that is sponsoring research, from ownership interest or employment in a company that may benefit as a licensee of an invention, or from the existence or expectation of entering into a consulting arrangement with a company sponsoring research.</td>
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<td>12. &quot;Institute/Institution&quot; means the Georgia Institute of Technology.</td>
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<td>13. &quot;Institutional Conflicts&quot; occur when the Institute, or one of its affiliated entities such as the Georgia Tech Research Corporation, Georgia Tech Applied Research Corporation, Georgia Tech Foundation or Georgia Advanced Technology Ventures, has a financial stake in the outcome of its research programs or licensed technology. The conflict may arise out of an equity interest in a start-up that licenses technology from the Institute or in the nature of royalties to be earned from licensing such technology.</td>
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<td>14. &quot;Institutional Responsibilities/Institutional Obligations&quot; means Investigator's professional responsibilities on behalf of the Institution, including for example, activities such as research, research consultation, teaching, professional practice, Institutional committee memberships, and service on panels such as Institutional Review Boards or Data and Safety Monitoring Boards.</td>
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<td>15. &quot;Investigator&quot; means the project director or principal investigator and any other person, regardless of title or position, who is responsible for the design, conduct, or reporting of research, which may include, for example, collaborators or consultants. If the research involves human subjects, it includes all personnel named in the protocol submitted to the Institutional Review Board. [NIH Guide - Financial Conflicts of Interest and Research Objectivity: Issues for Investigators and Institutional Review Boards, June 5,</td>
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16. "Part-time" means any amount of work other than full-time work.

17. "Public Official" means any person elected to state office or any person appointed to a state office where, in the conduct of such office, the person so appointed has administrative and discretionary authority to receive and expend public funds and to perform certain functions concerning the public which are assigned to him or her by law.

18. “Responsible Representative of the Institution” means the person designated by the Institute to oversee the solicitation and review of financial reporting statements from any Investigators who will be participating in Research. For purposes of this Policy, the Responsible Representative of the Institution is the Vice-President for Research or his/her designee(s).

19. "Responsible Unit Official" means the supervisor of the school, laboratory, or department of the person making a disclosure. For such supervisors, the Responsible Unit Official will be the person he or she reports to at the next supervisory level. For any other cases, it will be an individual designated by the Executive Vice-President for Research.

20. "Significant Financial Interest," as defined in current Federal Regulations, means:

(1) A financial interest consisting of one or more of the following interests of the Investigator (and those of the Investigator’s spouse and dependent children) that reasonably appears to be related to the Investigator’s institutional responsibilities:

a. With regard to any publicly traded entity, a significant financial interest exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure and the value of any equity interest in the entity as of the date of disclosure, when aggregated, exceeds $5,000. For purposes of this definition, remuneration includes salary and any payment for services not otherwise identified as salary (e.g., consulting fees, honoraria, paid authorship); equity interest includes any stock, stock option, or other ownership interest, as determined through reference to public prices or other reasonable measures of fair market value;

b. With regard to any non-publicly traded entity, a significant financial interest exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure, when aggregated, exceeds $5,000, or when the Investigator (or the Investigator’s spouse and dependent children) holds any equity interest (e.g., stock, stock option, or other ownership interest); or

This definition of Significant Financial Interest altered to correspond to the one now found in the latest federal regulations. Note $5,000 limit instead of the old $10,000.
c. Intellectual property rights and interests (e.g., patents, copyrights), upon receipt of income related to such rights and interests.

(2) The term *significant financial interest* does NOT include the following types of financial interests:

a. salary, royalties, or other remuneration paid by the Institution to the Investigator if the Investigator is currently employed or otherwise appointed by the Institution;
b. intellectual property rights assigned to the Institution and agreements to share in royalties related to such rights;
c. income from investment vehicles, such as mutual funds and retirement accounts, as long as the Investigator does not directly control the investment decisions made in these vehicles;
d. income from seminars, lectures, or teaching engagements sponsored by a federal, state, or local government agency, an Institution of higher education as defined in 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education;
e. income from service on advisory committees or review panels for a federal, state, or local government agency, or an Institution of higher education as defined at 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education.

(3) Investigators who receive US Public Health Service funding (e.g. NIH) or a subcontract from another entity that receives funds from a US Public Health Service funding agency, also must disclose the occurrence of any reimbursed or Sponsored Travel, related to their institutional responsibilities; provided, however, that this disclosure requirement does not apply to travel that is reimbursed or sponsored by a federal, state, or local government agency, an Institution of higher education as defined at 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an Institution of higher education. The disclosure must include the purpose of the trip, the identity of the sponsor/organizer, the destination, and the duration. Please refer to [http://www.compliance.gatech.edu/conflicts-of-interest-gt/faq-sponsored-travel](http://www.compliance.gatech.edu/conflicts-of-interest-gt/faq-sponsored-travel) for answers to frequently asked questions.

21. “Sponsored travel” means travel expenses that are paid on behalf of the Investigator and not reimbursed to the Investigator so that the exact monetary value may not be readily available.

22. “Substantial Interest” is “the direct or indirect ownership of more than 25 percent of the assets or stock of any business.” [Official Code of Georgia 45-10-20]. An Employee, alone or in combination with Family, may not have an ownership interest of more than 25% of the assets or stock in any business.
which Transacts Business with the State of Georgia including the Institute. Therefore caps of 24.9% are placed on the percentage of ownership an Employee, alone or in combination with Family, may have in any business which Transacts Business with the Institute. Ownership interests below this cap may be managed as provided in this policy.

23. "Transact Business" or "Transact any Business" means to sell or lease any personal property, real property, or services on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative and means to purchase surplus real or personal property on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative.

### 38.3 CONFLICT OF INTEREST

#### 38.3.1 Entrepreneurship

The mission of the Institute includes both assuring that research conducted at the Institute benefits the public and assisting the State of Georgia in creating or retaining industry, creating jobs, and promoting economic development. The Institute recognizes that Employee participation in bringing their inventions and other results of research conducted at the Institute into public use through commercialization plays an important role in this mission. Such participation may involve creation of a new company, in which an Employee or Employees have an ownership interest, to license and commercialize such technology. The policies and procedures for licensing technology are set forth in the Intellectual Property Policy (Faculty Handbook Section 50). New companies may or may not be housed in the Advanced Technology Development Center. Companies in which Employees have such an interest may Transact Business with the Institute only after such transaction(s) are/have been reviewed by the COI Office, Responsible Unit Official, and the Conflict of Interest Review Committee, as set forth below, and any conflicts of interest are managed, reduced, or eliminated as described in Section 38.4.6.

#### 38.3.2 Policy

Based on State and federal law and regulations, the following two rules will be followed as a matter of Institute policy:

1) Activities which constitute a Conflict of Interest where there is Significant Financial Interest are prohibited unless a plan to reduce, eliminate or manage the Conflict of Interest has been expressly approved in accordance with the provisions of this policy; and

2) Activities which constitute a Conflict of Interest where there is a Substantial Interest are unlawful.

#### 38.3.3 Board Memberships

As an Employee of the Board of Regents of the University System of Georgia, Full-time Employees of the Institute may serve as members of governing boards
of private, nonprofit, educational, athletic, or research related foundations and associations which are organized for the purpose of supporting institutions of higher education in this state and which in furtherance of this purpose may Transact Business with such institutions or with the Board of Regents of the University System of Georgia. [Official Code of Georgia 45-10-23]

38.4 DISCLOSURE OF REAL OR POTENTIAL CONFLICTS OF INTEREST

38.4.1 Disclosure to the State of Georgia

Except as provided in subsection (b) of the Official Code of Georgia Annotated Section 45-10-26, any Public Official or Employee whether for himself or herself, or on behalf of any Business, or any Business in which such Public Official or Employee or any member of his Family has a Substantial Interest who transacts business with the state or any agency thereof, shall disclose such transactions. Such disclosure shall be submitted prior to January 31 each year to the Secretary of State on such forms as he or she shall prescribe and shall include an itemized list of the previous year's transactions with the dollar amount of each transaction reported and totaled. Such disclosure statements shall be public records. [Official Code of Georgia 45-10-26]

38.4.2 Disclosure to the Institute

Every Employee of the Institute, including all who participate in outside professional activities and/or sponsored research must complete an annual disclosure using the online Conflict of Interest system. In answering the questions, if an Employee has indicated an actual or potential conflict, the system will notify the COI Office for review. Employees must update their disclosures on an ongoing basis when circumstances change.

38.4.3 Disclosure to Sponsors

Any person involved in the design, conduct, or reporting of research (technical and financial) or educational activities proposed for funding by a sponsor must complete the Investigator Financial Interest In Research Report via the online Conflict of Interest System disclosing any potential or actual Significant or Substantial Financial interests of the Employee (including those of the Employee’s Family). (See http://www.compliance.gatech.edu/conflicts-of-interest-gt/ for this system.) Disclosures should include, but is not limited to:

1) Performance or business transactions related to the sponsored activity;
2) Equity interests in or fees from either the sponsor of the research or a subcontractor;
3) Intellectual property rights.

Each such Disclosure needs to be updated via the online system by the Employee during the life of any award, as new Significant or Substantial Financial Interests

References the new online system for COI-related disclosures.
are recognized.

In completing a disclosure on the Conflict of Interest Online System, the Employee is certifying to the following:

"In submitting this form I affirm that the above information is true to the best of my knowledge and I certify that I have read and understood the Conflict of Interest and Outside Professional Activity Policy as set forth in the Georgia Institute of Technology Faculty Handbook, that I have made all required disclosures, and that I will comply with any conditions or restrictions imposed by the Institute to manage, reduce or eliminate conflicts of interest."

In any proposal submitted to a potential sponsor, the Office of Sponsored Programs is responsible for certifying that the Institute has implemented a written and enforced conflict of interest policy that is consistent with the provisions of Grant Policy Manual Section 510 of the National Science Foundation, the National Institutes of Health Guide for Objectivity in Research and other applicable sponsor regulations. In submitting the proposal, the Office of Sponsored Programs certifies that to the best of their knowledge all financial disclosures required by such conflict of interest policy have been made and that all identified conflicts of interest will have been satisfactorily managed, reduced or eliminated prior to the Institute’s expenditure of any funds under the award, in accordance with the Institute’s Conflict of Interest and Outside Professional Activity Policy.

38.4.4 Disclosure to the Institutional Review Board

Investigators submitting protocols to the Institutional Review Board (IRB) for the use of human subjects in research or other activities shall disclose any and all Significant Financial Interests that may appear to affect the design, conduct or reporting of such research. It is imperative that Investigators fully disclose to the IRB an ownership interest in any Business proposing to test any drug, device or other technology with human subjects or any potential financial interest in such technology that the Investigators, or the Investigators Family might have. The IRB, in collaboration with the COI Office, shall conduct an independent review and may or may not impose restrictions, including denial of approval for the protocol, as it deems is in the best interest of the subjects and the Institute.

38.4.5 Disclosure to Students

Special care needs to be taken when dealing with students involved in research so that a potential or actual Conflict of Interest does not adversely affect their education, i.e. their ability to graduate or publish. Prior to retaining students on research projects that may involve a potential or actual Conflict of Interest, the Investigator and senior personnel will disclose to the student as well as to the COI Office and Responsible Unit Official, any interests in outside companies that may be perceived to benefit from the student’s
research. Should a conflict of interest exist, the COI Office, the Responsible Unit Official, the conflicted Investigator, and the Conflict of Interest Review Committee, will design a conflict management plan to manage, reduce or eliminate the conflict prior to the student's involvement in the project pursuant to the procedure provided for in Section 38.4.6.

38.4.6 Review of Financial Disclosures and Resolution of Conflicts of Interest

When a financial disclosure or report of a conflict of interest is made via the online Conflict of Interest module and forwarded to the COI Office, the COI Office reviews the disclosure per the COI Office Procedures.

Should an actual or apparent conflict of interest exist, the COI Office and the Conflict of Interest Review Committee will design a conflict management plan to manage, reduce or eliminate the conflict prior to the Institute's expenditure of any such funds.

In developing a management plan, the COI Office and the Conflict of Interest Review Committee will work with the conflicted Employee and with the Responsible Unit Official and will consider the relationships between the Employee and the Institute to ensure adequate conditions or restrictions are in place to manage, reduce or eliminate the conflict(s).

Such conditions may include, without limitation:

1) Public disclosure of significant financial interests;
2) Monitoring of research by independent reviewers;
3) Modification of the research plan;
4) Disqualification from participation in the portion of the sponsor funded research that would be affected by the Significant or Substantial Financial Interests;
5) Divestiture of Significant or Substantial Financial Interests; and/or
6) Severance of relationships that create actual or potential conflicts.

Conflict management plans and/or restrictions must be in writing and forwarded to the conflicted Employee and the Responsible Unit Official(s). The COI Office and the Responsible Unit Officials will monitor compliance with the plan. A copy of the plan and relevant documentation will be maintained in the COI Office.

Upon recommendation by a Responsible Unit Official, the Conflict of Interest Review Committee may determine a) that imposing conditions or restrictions would be ineffective or b) that any potential negative impacts which may arise from a Significant or Substantial Financial Interest is outweighed by interests of scientific progress, technology transfer, or the public health and welfare. In such cases, the Responsible Unit Official and the Conflict of Interest Review Committee may recommend to the Provost that the Institute allow research to
go forward provided that any conflict management plan includes ongoing monthly review by the Responsible Unit Official and the Conflict of Interest Review Committee.

Notwithstanding the foregoing, nothing herein shall permit the Institute to authorize an activity that is contrary to the laws of the State of Georgia, federal regulations, or other restrictions imposed by regulation or contract by research sponsors. Furthermore, no activity involving human subjects may be authorized that has not been approved by the Institutional Review Board which in compliance with 45CFR46 may, in its sole discretion, deny such approval.

Should the Responsible Representative of the Institution find that the Institute is unable to satisfactorily manage a conflict of interest prior to the Institute's expenditure of any such funds, the Responsible Representative of the Institution shall immediately notify the COI Office and the Office of Sponsored Programs.

All determinations made or actions taken by the COI Office, and/or the Conflict of Interest Review Committee shall be in writing and together with all financial disclosures made hereunder, be maintained until at least three years after the later of the termination or completion of the award to which they relate, or the resolution of any government action involving those records. If the Investigator is engaged in any research or other sponsored activity supported by the Department of Health and Human Services including but not limited to the National Institutes of Health, the Responsible Representative of the Institution shall forward this information to the sponsor in compliance with regulation.

Written management plans must be reviewed annually or upon a change in circumstances affecting the plan and appropriate disclosures should continue during the ongoing management of any conflict.

### 38.4.7 Conflict of Interest Training Requirements

Conflict of interest training is required for all Investigators before engaging in funded research and every four years thereafter.

### 38.5 CONSULTING

#### 38.5.1 Principles and General Standards

The Institute recognizes that consulting is a benefit to the institution and the General Faculty. By gaining experience working closely with companies Faculty are aware of new technical directions and innovations, therefore the Institute encourages and permits its Faculty to consult. The practice of consulting calls for the Faculty to enter the non-academic world as a professional, with special disciplinary talents and knowledge. The Institute approves of such practices and set forth below are the principles and general standards for such practices.
Consulting can provide an important means of continuing education of the Faculty and can provide them with a currency and experience in aspects of their professional field outside the context of the Institute itself. Though such attributes of consulting may make faculty better scholars and teachers, the employer/employee nature of the consulting process has in it the potential for diversion of Faculty, Staff, and student employees from their primary activities and responsibilities.

Consulting is encouraged, provided the faculty member’s primary obligation to the Institute is met. The responsibility for adhering to the limit on consulting days, and other aspects of the Institute’s consulting policy, lies first with the individual faculty member. Faculty members have an obligation to report, fully and currently, the level of their consulting activities. Faculty members should resolve any questions or ambiguities with the appropriate Institute official before the fact, so that the Institute community is not injured by their actions. The Institute has the right, and indeed, the obligation, to protect itself from losses due to excess consulting.

38.5.2 Conflict of Commitment

The purpose of the policy on consulting and related activities is to state with both clarity and generality the limits on the time that an Institute Faculty member may spend in consulting. The limits set forth below are intended to strike a balance between consulting and regular duties within the Institute and serve to safeguard the interest of both parties. In cases of ambiguity, the primary guide should be the intention to promote the interests of the Institute as a place of education, learning and research. It is the Faculty’s obligation to obtain prior consent from the appropriate Institute officer.

38.5.3 Prior Approval

The Institute encourages and assists faculty members in the practice of their profession. The Institution particularly encourages Faculty to consult, providing guidelines for this type of activity. It must be recognized, however, that professional consulting activities and involvement in business ventures can result in an apparent or actual Conflict of Interest. This policy provides several principles which should be followed to avoid conflicts.

It is not possible to anticipate all types of potential outside involvements. It is, therefore, always a faculty member’s obligation to obtain prior written consent from his/her School Chair or Laboratory Director, Dean, or Director of GTRI, and the appropriate Institute officer before undertaking any activities. Approval must be obtained by completing and obtaining authorization via the Conflict of Interest Online System. If the faculty member’s consulting activities are related to his/her Institutional Obligations, and if the faculty member has either a Significant Financial Interest or a Substantial Interest in the outside entity with which he/she consults, the consulting activity must also be reviewed and approved by the COI Office prior to the initiation of services.
38.5.4 Distance Learning and Continuing Education
In the case of a faculty member organizing or generating any continuing educational program not affiliated, sponsored, or endorsed in any way by the Institute, the faculty member must obtain permission from the Dean of Professional Education via the Conflict of Interest Online System.

38.5.5 Use of Georgia Institute of Technology Facilities
In competing for consulting, Employees are not to take advantage of their access to Institute facilities. State law precludes Institute Employees from using State facilities or property for personal gain or benefit. The facilities and services of the Institute may not be used in connection with compensated outside work, except in a purely incidental way. This is not envisioned to exclude contracts with the Institute for the use of facilities or services such as the Computer Center or the Library or other facilities for which cost centers have been established.

38.5.6 Payment for Consulting
Full-time Institute Employees may not be on the payroll of other organizations except as a consultant. (Payment for services must be reported on an IRS 1099 Form, not on a W-2 form.) Members of the faculty may, for tax liability reasons, undertake consulting assignments through a personal corporation. This is not considered a conflict of interest in and of itself. However, see the "Prohibited Activities" subsection.

38.5.7 Activities Not Considered "Consulting"
(a) Publication
Scholarly communications in the form of books, movies, television productions, art works, etc. though frequently earning financial profit for a faculty member and for another party (e.g., publisher), are not viewed as consultation.

(b) Professional Service
Service on national commissions, advisory bodies for governmental agencies and boards, granting agency peer review panels, visiting committees or advisory groups to other universities, and on analogous bodies is not considered to be Consulting. The fundamental distinction between these activities and consulting is that they are public or Institute service. Although participants may receive an honorarium or equivalent, these professional service activities are not undertaken for personal financial gain.

(c) "Moonlighting"
Employee may pursue a variety of endeavors for financial profit that are not directly related to the person's field or discipline. These efforts are part of the
faculty member's private life and do not come under Institute regulation for this consulting policy. Such endeavors may be pursued only after the primary commitment to the Institute has been fulfilled and upon prior approval from a Responsible Unit Official of the Institute.

38.5.8 Consulting Agreements

Consulting agreements are personal agreements between Employees and a private company. The Institute cannot provide advice to Employees regarding private matters, however Employees should carefully review such agreements to ensure the terms are not in conflict with their employment agreement with the Institute or GTRC nor in conflict with any of the Institute’s policies, including but not limited to this Conflict of Interest and Outside Professional Activity Policy and the Intellectual Property Policy. Most companies require a consultant to sign a consulting agreement. Any Institute Employee who is asked to sign such an agreement should consult with his or her personal attorney for review and advice. Any consultant agreement, at a minimum, should state that the consultant is an Employee of the Institute and, as such, has commitments, responsibilities and obligations (contractual or otherwise) that must be fulfilled and may not be negatively impacted by a consulting agreement terms/conditions or actual consulting.

To avoid conflict with Institute-assigned duties, the following language is recommended as part of an Employee’s consulting agreement:

"This agreement is made subject to the understanding that Consultant is an Employee of the Georgia Institute of Technology (GIT), that he/she must fulfill certain obligations including teaching, directing laboratory operations and conducting research; and that as a result of his/her employment by GIT, GIT has certain rights to intellectual property developed by him/her and any rights conveyed hereunder shall be subject to those rights. Under no circumstances are any rights to GIT or Georgia Tech Research Corporation intellectual property conveyed hereunder. All consulting activity hereunder shall be on a non-interfering basis with normal GIT activities. Nothing contained in this Agreement shall directly or impliedly affect the obligations listed above."

38.5.9 The Number of Permissible Consulting Days

The maximum number of consulting days permitted for a member of the General Faculty without hourly time keeping on a 12 month or 9 month appointment is one day per week. Institute holidays are included in each thirty-nine (39) week academic year from which the thirty-nine (39) day consultation limit is derived. A limited amount of "averaging" of consulting time is permissible if, on occasion, a faculty member plans to consult for more than one
day per week but no more than thirty-nine days for an academic year. Thirty-nine (39) days of consulting per academic year, or fifty-two (52) days for a calendar year of active duty, is intended to be a liberal allocation, yet one that is fair to the Institute. Members of the General Faculty whose time and effort is accounted for through hourly timekeeping may engage in consulting only outside their normal working hours or while on leave from the Institute.

**a) Consulting During Periods of Part-Time Institute Employment**

The thirty-nine (39) day limit should be prorated for those members of the General Faculty holding part-time appointments, using the following formula: 

\[39 \times F\]

where F is the fraction of full-time duty, thirty-nine (39) represents the average number of academic weeks per year. Thus, a faculty member holding a seventy-five (75%) appointment is permitted up to twenty-nine (29) days of consulting per academic year for the 75% time commitment to the Institute.

**b) Consulting During the Summer Term or During Periods of Leave Without Salary**

Faculty members on nine-month appointments with no salary supplement for the Summer Term (or other off-duty period) are not subject to the one day per week limit during that semester. Nor does the limit apply to faculty members on leave without salary. If the faculty member receives a salary for full-time service during the Summer Term, the regular one day per week (or thirteen-days for Summer Term) consulting limit shall apply.

**c) Consulting While on Study Leave**

The purpose of study leave is to permit faculty members to take time off from normal Institute duties to advance their scholarly interests so that they may return to their posts with renewed vigor, perspective, and insight. A faculty member on study leave receiving full-time Institute salary may consult up to the regular one day per week during the period of sabbatical.

**38.5.10 Consulting Services for Other State Offices**

As a general rule Employees of the Institute may not receive compensation for services performed for other state offices. [Official Code of Georgia 45-10-20]

Employees of one State agency may teach or work as consultants for another state agency provided the work falls within one of the following classifications and provided the conditions stated below are met.

Employees of one state agency may teach or work as consultants for another state agency if the transaction involves part-time employment by the state agency seeking consulting services of a chaplain, fireman, any person holding a doctorate or master's degree from an accredited college or university, a licensed physician, dentist, psychologist, registered nurse or a licensed practical nurse, or veterinarian.
The chief executive officer of the department or agency desiring to obtain the services of a person falling within the class of exceptions shall certify in writing the need for the services and shall set forth why the best interest of the state will be served by obtaining the part-time services of such a person in lieu of obtaining such services from a person not presently employed by the State.

The chief executive officer of the department or agency employing the person in the class of exceptions shall certify in writing that the person whose services are desired is available to perform such services, that the performances of such services will not detract nor have a detrimental effect on the performance of the person's employment, and, where appropriate, that the part-time employment of this person will be in the best interest of the State.

The two departments or agencies involved will then agree on the procedures under which the Employee shall perform the additional services. The agreement shall specify the means of employment, whether as a part-time employee or as a consultant, the compensation, and other pertinent details and conditions of the employment relationship. The agreement may be terminated at any time by either of the parties to the agreement.

### 38.6 PENALTIES

Any Employee who violates this policy shall be subject to disciplinary action up to and including dismissal.

There are also sanctions under State law [Official Code of Georgia Section 45-10-28] as described in the following paragraphs.

Any appointed public official or Employee who violates Official Code of Georgia Annotated Section 45-10-23 ("Full-time employees prohibited from transacting business with own state agency; exception to prohibition for Board of Regents employees"), Section 45-10-24 ("Part-time public officials with state-wide powers prohibited from transacting business with any state agency; part-time employees prohibited from transacting business with own state agency; exceptions to prohibitions"), or Section 45-10-26 ("Public officials and employees to file yearly disclosure statements concerning business transactions with state; statements to be public records") shall be subject to:

- Removal from office or employment;
- A civil fine not to exceed $10,000.00; and
- Restitution to the state of any pecuniary benefit received as a result of such violation.

Any business which violates Code Section 45-10-23, 45-10-24, or 45-10-26 shall be subject to:

- A civil fine not to exceed $10,000.00; and
• Restitution to the state of any pecuniary benefit received as a result of such violation.

38.7 INSTITUTIONAL CONFLICTS

Institutional Conflicts occur when the Institute has a financial stake in the outcome of its research programs or licensed technology. The Conflict may arise out of an equity interest in a start-up that licenses technology from the Institute or in the nature of royalties to be earned from licensing such technology. For example, the Institute may benefit from Georgia Tech Research Corporation’s equity in licensees, as equity is often taken in lieu of royalties or other license fees, this may create Institutional Conflicts for several reasons:

1) Owners of equity may cash out prior to product going to market, this creates a situation under which the Georgia Tech Research Corporation may have an enhanced position relative to other shareholders;

2) The equity interest could have substantial value if the technology is successfully commercialized, creating a more apparent conflict.

Georgia Tech Research Corporation should be permitted to take stock in Licensee Companies that do not have the financial resources to make full license payments but, as with Employees, Georgia Tech Research Corporation must avoid the appearance of Conflicts of Interest in research programs, education or business transactions. Therefore equity should not be held in significant amounts to confer management power in companies, and ownership interests in companies should be disclosed.

Review and approval may be provided by the Conflict of Interest Review Committee.