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**CHAPTER 7:
UNIVERSITY POLICIES RELATED TO EXTRAMURAL ACTIVITY OF FACULTY**

1. CONSULTING POLICY

A. GENERAL CONSIDERATIONS

Although the primary function of Auburn University is to render service to the people of Alabama through its established programs of instruction, research, and extension, the University recognizes its obligation to make available the services of the many highly trained specialists on its faculty to business, industry, governments, professional societies, or other appropriate groups. Moreover, outside services of a professional nature generally strengthen the faculty member and contribute to improvement of teaching and research programs. Therefore, the University encourages the involvement of its faculty in extramural activities which are consistent with their primary responsibilities to the institution. These activities typically invite a faculty member to use his or her specialized knowledge to provide advice or judgment about a problem, situation, or area of scholarship in an academic discipline.

Because of the increasing prevalence of various consulting and extramural activities, however, and in view of the inherent problems relating to these, the following guiding principles and policies have been established to prevent conflicts of interest, interference with University functions, or unethical practices:

1. The major criteria to be used in determining whether a particular extramural activity shall be encouraged or permitted are:
 - a. The effect of the activity on the individual and the University, professionally and academically.
 - b. The extent to which the activity will complement the University's programs or interfere with the effective discharge of the faculty member's responsibilities to the University. These responsibilities include not only formal classroom and laboratory activities, but also such other duties as student counseling, committee work, preparation of scholarly publications, and continued professional development.

2. It is the responsibility of the department head and dean or director to exercise judicious control of consulting activities so that no University functions are neglected. It is the faculty member's responsibility to ensure that his or her teaching is covered during the approved consulting period.

3. The following joint American Association of University Professors and the American Council on Education policy statement "On Preventing Conflicts of Interest in Government-Sponsored Research at Universities" has been adopted as Auburn's basic policy on conflicts of interest (AAUP Redbook, 1990, pp 83-85):

The increasingly necessary and complex relationships among universities, government, and industry call for more intensive attention to standards of procedure and conduct in government-sponsored research. The clarification and application of such standards must be designed to serve the purposes and needs of the projects and the public interest involved in

them and to protect the integrity of the cooperating institutions as agencies of higher education.

The government and institutions of higher education, as the contracting parties, have an obligation to see that adequate standards and procedures are developed and applied; to inform one another of their respective requirements; and to ensure that all individuals participating in their respective behalves are informed of and apply the standards and procedures that are so developed.

Consulting relationships between university staff members and industry serve the interests of research and education in the university. Likewise, the transfer of technical knowledge and skill from the university to industry contributes to technological advance. Such relationships are desirable, but certain potential hazards should be recognized.

4. The President is directed to formulate, implement and publicize procedures to enforce this policy as required by applicable regulations.

Conflict Situations

1. Favoring of outside interests. When a university staff member (administrator, faculty member, professional staff member, or employee) undertaking or engaging in government-sponsored work has a significant financial interest in, or a consulting arrangement with, a private business concern, it is important to avoid actual or apparent conflicts of interest between government-sponsored university research obligations and outside interests and other obligations. Situations in or from which conflicts of interest may arise are the:

- a. Undertaking or orientation of the staff member's university research to serve the research or other needs of the private firm without disclosure of such undertaking or orientation to the university and to the sponsoring agency;
- b. Purchase of major equipment, instruments, materials, or other items for university research from the private firm in which the staff member has the interest without disclosure of such interest;
- c. Transmission to the private firm or other use for personal gain of government-sponsored work products, results, materials, records, or information that are not made generally available (this would not necessarily preclude appropriate licensing arrangements for inventions, or consulting on the basis of government-sponsored research results where there is significant additional work by the staff member independent of the government-sponsored research);
- d. Use for personal gain or other unauthorized use of privileged information acquired in connection with the staff member's government-sponsored activities (the term "privileged information" includes, but is not limited to, medical, personnel, or security records of individuals; anticipated material requirements or price actions; possible new sites for government operations; and knowledge of forthcoming programs or of selection of contractors or subcontractors in advance of official announcements);
- e. Negotiation or influence upon the negotiation of contracts relating to the staff member's government-sponsored research between the university and private organizations with which the staff member has consulting or other significant relationships;
- f. Acceptance of gratuities or special favors from private organizations with which the university does, or may conduct, business in connection with a government-sponsored research project, or extension of gratuities or special favors to employees of the sponsoring government agency, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties.

2. Distribution of effort. There are competing demands on the energies of faculty members (for example, research, teaching, committee work, outside consulting). The way in which a faculty member divides his or her effort among these various functions does not raise ethical questions unless the government agency supporting the research is misled in its understanding of the amount of intellectual effort the faculty member is actually devoting to the research in question. A system of precise time accounting is incompatible with the inherent character of the work of faculty members, since the various functions they perform are closely interrelated and do not conform to any meaningful division of a standard work week. On the other hand, if the research agreement contemplates that a faculty member will devote a certain fraction of effort to the government-sponsored research, or the faculty member agrees to assume responsibility in relation to such research, a demonstrable relationship between the indicated effort or responsibility and the actual extent of the faculty member's involvement is to be expected. Each university, therefore, should--through joint consultation of administration and faculty--develop procedures to ensure that proposals are responsibly made and complied with.

3. Consulting for government agencies or their contractors. When the staff member engaged in government-sponsored research also serves as a consultant to a federal agency, such conduct is subject to the provisions of the Conflict of Interest Statutes (18 U.S.C. 202-209 as amended) and the president's memorandum of May 2, 1963, Preventing Conflicts of Interest on the Part of Special Government Employees. When the staff member consults for one or more government contractors, or prospective contractors, in the same technical field as the staff member's research project, care must be taken to avoid giving advice that may be of questionable objectivity because of its possible bearing on the individual's other interests. In undertaking and performing consulting services, the staff member should make full disclosure of such interests to the university and to the contractor insofar as they may appear to relate to the work at the university or for the contractor. Conflict-of-interest problems could arise, for example, in the participation of a staff member of the university in an evaluation for the government agency or its contractor of some technical aspect of the work of another organization with which the staff member has a consulting or employment relationship or a significant financial interest, or in an evaluation of a competitor to such other organization.

Full time faculty members may be allowed to consult and/or be involved in appropriate continuing education and public service activities for extra compensation a maximum of one work day per week with the consent of their department head and appropriate dean or director. Exceptions to this policy must be approved by the Provost upon recommendation of the department head, dean or director. Consulting and internal activities for extra compensation will be counted against this maximum of one day per week; travel days must be counted as consulting time. This policy is not intended to limit consulting activities of faculty outside the normal work day, during vacation leave, or during the summer for nine-month employees not employed by the University for the summer semester.

A formal application, form UPO-10, must be filed at least five working days in advance for permission to engage in extramural activities other than the traditional functions in professional, scholarly, or honor societies. The UPO-10 must be approved by the faculty member's department head and dean or director and by the Provost. Copies of approved applications shall be maintained in a central file in the Office of Planning and Analysis and in the individual's file in University Personnel Services.

Auburn University will assume no responsibility for the competence of its faculty members with respect to the performance of extramural professional activities, except those carried out under the auspices of established programs operated by the University.

In connection with extramural professional activities arranged outside established University programs, the name of Auburn University shall not be used for advertising or promotional purposes or in any report or statement that implies approval or endorsement by Auburn University.

Faculty members should not commit specialized University facilities and equipment or other resources to external consulting projects unless such use is specifically approved in writing in advance by the department head or other appropriate administrator. Faculty members will be expected to reimburse the University for the use of specialized equipment and facilities as well as materials. Use of University computer facilities for consulting will also require prior written approval and will be reimbursed at the external user rate. Approval or reimbursement will not be required for the use of the library or office space for consulting activities.

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B. COMPENSATION

1. ON UNIVERSITY TIME: NO EXTRA COMPENSATION

Faculty participation in programs and projects administered or conducted by the University and supported by extramural contracts, grants, or other types of agreements shall be considered a part of the faculty member's responsibilities to the University. During the time that a faculty member is under contract to the University, be it on a nine-month or a 12-month appointment, the individual is expected to fulfill his or her total responsibilities. Therefore, if a faculty member is participating in an extramural program or project within the University, whether it is in his or her own or a different department or division of the University, an appropriate part of the faculty member's salary shall be provided by the program or project budget. Under these circumstances, no increase in the faculty member's base compensation shall be permitted.

In no case shall a project leader or program director for an extramural project or program receive payment of extra compensation for work on his or her own project or program. Also, in no case shall a unit administrator receive extra compensation for work on an extramural project or program that is carried out with his or her unit.

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2. ON UNIVERSITY TIME: LIMITED COMPENSATION

Consulting for extra compensation on projects or activities internal to the University generally will be limited to short-term engagements for which release from normal duties is not feasible. All such requests must be approved in writing in advance by appropriate administrators as specified above.

The University recognizes, however, that there are certain irregular, short-term University activities which, because of their short duration, occasional frequency, and lack of forewarning cannot be budgeted in advance and therefore must be handled on an exceptional basis. In such cases, the University's policy shall be to recognize the situation and to permit extra compensation to be paid provided that the following conditions exist:

1. The work is done in addition to a normal full load.
2. No qualified person is available to do the work as part of his or her normal load.
3. The project or program budget includes sufficient funds to cover the costs of the extra compensation.
4. The additional duties shall not be so heavy as to interfere with the performance of regular duties.

5. Approval is obtained in advance.

The maximum hourly rate for extra compensation for activities internal to the University by faculty who participate in continuing education or public service projects will be determined by multiplying the faculty member's twelve-month salary by the factor .0012. In the case of faculty on nine-month appointments, the factor .00156 shall be used. It should be understood that this is the maximum rate allowable; the actual rate of extra compensation will be determined by the complexity of the assignments and the availability of funds, as negotiated between the faculty member and the program administrator.

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3. ON A FACULTY MEMBER'S TIME

A faculty member doing consulting work on his or her own time is not subject to restrictions on the amount of compensation he or she can earn. Such consulting work, however, shall not interfere in any way with the faculty member's obligations to the University.

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2. CONCURRENT APPOINTMENTS

The University's policy permits a faculty member to be employed full-time and to accept an appointment in another institution to teach a course of not more than 3 semester hours, or the converse, under the following conditions designed to protect the University's academic programs and the welfare of the faculty.

Each case is to be considered on its individual merits and must be approved in advance by the Provost. The conditions of the concurrent appointment must be set forth in a memorandum of understanding stating explicitly the responsibilities of the individual to each employer. This document must be signed by the individual's immediate supervisor(s) in each institution or organization; in the case of educational institutions, both department head and dean are to sign.

The nature and requirements of the work assignments must be such as to permit the full-time Auburn University faculty member who holds a concurrent appointment with another institution to discharge his or her responsibilities to Auburn University at the same level of quality expected of all other faculty members, with respect not only to classroom performance, but also to the other professional and academic activities (including informal assistance to students) traditionally associated with University faculty appointments. Since joint appointments for teaching, research, and extension are inherently very demanding on a person's time and energy, faculty members on such appointments generally will not be approved for concurrent appointment with another institution or organization.

Since a person employed full-time by another institution or organization and concurrently teaching a course for Auburn University cannot devote the necessary time to the many professional and academic activities traditionally associated with University faculty appointment, the salary for the part-time appointment will be less than the proportionate amount calculated on the basis of the fractional load represented by the number of hours taught. Generally, the compensation will be a specified amount based on the number of hours for the course.

Since continued overload appointments for long periods inherently endanger the welfare of the faculty member or affect unfavorably the quality or quantity of his or her work, such appointments for extended

periods should be discouraged.

Fringe benefits for full-time Auburn University faculty will be based on the University salary only. Part-time employees will not be eligible to participate in the University's fringe benefits.

Joint appointment on the Auburn and Montgomery campuses of Auburn University cannot exceed 100 percent time or effort.

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3. INVENTION DISCLOSURES

A. OFFICE OF THE VICE PRESIDENT FOR RESEARCH

The Office of Associate Provost and Vice President for Research provides various kinds of assistance in dealing with invention disclosures. On occasion the University, through this Office, undertakes patenting and licensing on behalf of an individual or group of individuals. More typically, the Office helps individuals find companies that will license the technology, sponsor further research, and/or help undertake patenting. The Office also helps individuals find appropriate patent or licensing consultants.

The University's Intellectual Property policies and activities are directed by the Auburn Research Foundation (ARF), a separately incorporated non-profit University entity. The Board of Directors of the ARF is comprised of University employees who hold their ARF positions by virtue of their respective University positions. The ARF and the Office of Associate Provost and Vice President for Research are assisted in dealing with invention disclosures and related matters by the Patent and Invention Disclosure Review Committee, an advisory committee comprised of University faculty and administrators.

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B. INVENTION ADMINISTRATION AGREEMENT

Auburn University has an Invention Administration Agreement with Research Corporation Technologies (RCT) under which RCT will evaluate invention disclosures for patentability and commercialization. If a faculty member's research has produced something novel, utilitarian, and non-obvious, it may, with appropriate development and promotion, enhance industrial growth and economic development as well as provide income to both the researcher and the University.

RCT's Benchmark Program features rapid initial review of invention disclosures and cash payments to inventors and the University. Under the Benchmark Program, all inventions disclosures submitted to RCT will be reviewed within 30 days. At the end of that period, RCT will either make a \$1,000 cash Option Payment to the inventor(s) in order to continue with an in-depth evaluation of the invention, or they will return the disclosure with a brief summary of their evaluation. For those disclosures selected for an in-depth evaluation, RCT will either accept the invention for administration and make an additional \$3,000 Project Acceptance Payment to the inventor(s), or they will return the disclosure with a summary of their complete evaluation.

Information on RCT's Benchmark Program and Invention Disclosure forms are available through the Office of Associate Provost and Vice President for Research. All invention disclosures should be submitted through the Office of Associate Provost and Vice President for Research.

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4. UNIVERSITY PATENT POLICY

The University patent policy, summarized below, applies to faculty, other employees, and students: it is on file in the Office of the Vice President for Research, Samford Hall 202.

The Auburn University Patent Policy provides for the patenting of inventions or discoveries made by University faculty, other employees or students and brings about, through the resulting patents, professional recognition for the inventor or inventors, utilization of inventions and discoveries and an appropriate financial return to the inventor or inventors and the University.

The Auburn University Patent Policy consists of two parts, Section 1.0, Substantive Policy, and Section 2.0, Procedural. In brief, the patent policy establishes in Section 1.0 the relationship between the University faculty or other employees and students and the University, including that relative to the sharing of proceeds from patents, and establishes in Section 2.0 the requirements for reporting inventions and discoveries to the University and the procedures for obtaining and utilizing patents.

Section 1.0, Substantive Policy of the Auburn University Patent Policy, binds the University faculty, other employees, and students to the Auburn University Patent Policy during employment or matriculation and one year thereafter.

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A. DEFINITIONS

The patent policy defines "inventions" and "discoveries," in U.S. Patent Office terminology, as:

1. Processes, machines, compositions of matter and other articles of manufacture, including improvements, new methods, etc.
2. Design
3. Plants, asexually and sexually reproduced, with some exceptions

Inventions involve:

1. Conception, a mental act
2. Reduction to practice

Unpatentable subject matter includes:

1. Discovery of natural phenomenon
2. Products of nature (except antibiotics, vitamins)
3. Mere ideas or concepts
4. Inventions relating to atomic weapons

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B. EQUITY

The equity of the inventor or inventors in a patent is determined largely by the source of funding for the research which led to the invention or discovery, as follows:

University-Funded Research: The inventor or inventors share in the net proceeds from a patent as indicated below, with all patent costs paid by the University and recouped from the proceeds.

Personal Research: The inventor or inventors may, if no significant use of University facilities is involved, obtain and retain full rights to a patent or they may assign the invention or discovery to the University for handling as under University-funded research.

Funded by Government or Industry: The inventor or inventors share as specified in the contract or grant and, if applicable, as further specified below.

Extramural Consulting Funded Research: The inventor or inventors share in the rights to a patent as specified by the extramural consulting agreement unless approval for extramural consulting was not obtained and/or substantial use of University facilities was involved.

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C. PROCEEDS

The inventor or inventors will receive 50 percent of the first \$100,000 of net royalty; 40 percent of the second \$100,000; and 30 percent of all net royalty income over \$200,000.

Net royalty income will be determined by the following method: First, all out-of-pocket University expenses for obtaining, defending and marketing the patent will be recovered. Second, a 15 percent administrative charge will be used to provide resources to encourage invention disclosures and to process these in a timely manner, and to facilitate the transfer and commercialization of discoveries and inventions.

The inventor or inventors are required to execute such assignments and other documents that the University determines to be necessary to obtain a patent.

The Auburn University Patent Policy requires that the University faculty, other employees, and students must report all inventions or discoveries considered patentable to the Secretary-Director of the Auburn Research Foundation on the disclosure form available from the Secretary-Director. Note that in the United States a patent on an invention or discovery must be applied for within one year of the first publication disclosing an invention or discovery and that in certain foreign countries a patent must be applied for prior to such a publication.

The University is required by the Auburn University Patent Policy to consider promptly any disclosure of an invention or discovery and determine within six months what action it plans; otherwise, the inventor or inventors may request the rights to the invention or discovery for subsequent patenting on their own, unless this is prohibited by the provisions of an applicable grant or contract.

The University shall have the right to determine how and for what consideration any patent rights assigned to the University shall be used.

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5. UNIVERSITY COPYRIGHT POLICY

The purpose of this policy is to provide guidelines for the determination of the respective rights of Auburn University and its members with regard to copyrights and royalties or other income derived from copyrightable work initiated after October 1, 1984. Materials and works subject to copyright and produced by members of the faculty, administration, staff, students, or other employees as a part of their employment shall be governed by this policy. Renewals of copyrights under previous copyright statutes shall follow the original formal or tacit copyright agreement between the University and the producer unless the material or work to be reproduced involves changes assisted or assigned by the University after October 1, 1984. This policy covers all material and work to be copyrighted by members of Auburn University under the Copyright Laws of the United States and/or other protective statutes. Examples of works covered by this policy include, but are not limited to, the following:

1. Books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests, and survey instruments.
2. Lectures and unpublished lecture notes.
3. Films, slide programs, film strips, charts, transparencies, pictorials, graphics and other visual aids.
4. Video and audio tapes and cassettes.
5. Live video or audio broadcasts.
6. Programmed instruction materials.
7. Computer programs and documentation.

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A. DETERMINATION OF EQUITY IN COPYRIGHTED MATERIALS

Copyrighted material may be produced through: 1) individual efforts, 2) University assisted individual efforts, 3) extramurally sponsored efforts, and 4) University assigned efforts.

1. Individual Efforts: This policy recognizes the long-standing custom and tacit understanding that faculty members own copyright to their individual scholarly work. A member of the University is entitled to ownership of copyright and royalties or other income derived from individual scholarly works. Individual work for members of the faculty is defined as that scholarly work generally expected of faculty and incorporated into the regular recognitions and rewards processes of the University and is not a specific University assigned effort. Individual work, so defined, is automatically exempt from the formal review procedures of this policy. Individual scholarly work in which the University provides specific and non-routine support for the work, as defined by departmental, or unit, or University policy, shall be governed by Section A. 2 of this policy.
2. University Assisted Individual Efforts: Materials or works produced by employees of the University shall be subject to copyright by the employee and/or the University as co-authors if the production cost is specifically shared by the employee and the University and the material and works are not prepared in accordance with the terms of a contract or grant in which the University is a party or as a specific University assignment.

In cases of University Assisted Individual Efforts in which the University assistance is less than 50 percent of the costs of production, the individual employee shall retain the copyright and the University may share in the division of royalty and other income up to the total of reimbursement costs of University assistance. In cases in which the University assistance is 50 percent or greater, the University shall retain the copyright and the division of royalty and

other income shall be based on percentage of sponsorship. The percentage distribution shall be determined in accord with Section C of this policy.

Routine use, as determined by departmental, unit, or University policy, of the Library, office space, equipment, supplies, facilities, and personnel does not, for the purposes of this policy, constitute University assistance.

3. Extramurally Sponsored Efforts: Rights to materials and works subject to copyright and developed as a result of work supported partially or fully by an outside agency through a contract or grant shall be determined in accordance with the terms of the contract or grant. In those cases where copyrights are vested in the University or shared between the sponsor and the University, the producer may share in the income within the provisions of this policy.

4. University Assigned Efforts: Materials or other works produced by employees of the University shall be subject to copyright exclusively by the University, if the University assigned the employee to write or produce the specific materials or works. Sharing of royalty or other income with the author or producer may be authorized by the Associate Provost and Vice President for Research as an incentive to encourage further development of copyrightable materials. A faculty member's general obligation to produce scholarly and creative works and/or the receipt of a Professional Improvement Leave, unless there is a specific agreement to the contrary, do not constitute University Assigned Efforts as defined in this policy.

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B. REMUNERATION

An employee of Auburn University may receive royalty and other incomes resulting from the net profit earnings from copyrighted material. No limit shall be set on the amount of royalty income an individual may earn. Determination of the relative amounts of royalty and other income earned or projected shall be made at the time of copyright application, or at such prior time as deemed appropriate, and within the provisions set forth in this policy. All remuneration agreements shall be put in writing.

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C. PROCEDURES

Prior to initiation, or at such prior time as may be appropriate, of a copyright application resulting from materials or works produced by Auburn University employees as a part of or related to their employment, the employee shall submit a Copyright Agreement for review and approval through the department or unit head and dean to the Associate Provost and Vice President for Research. The agreement proposal shall be submitted on forms provided by the Associate Provost and Vice President for Research and shall comply with the provisions stated in the University Copyright Policy.

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D. UNIVERSITY COPYRIGHT APPEALS COMMITTEE

An ad hoc Copyright Appeals Committee shall be convened to review the application of this policy and shall submit its recommendations to the President in the event of disagreement between the employee and the

Associate Provost and Vice President for Research. Either the employee or the Associate Provost and Vice President for Research may request a review.

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6. INSTITUTIONAL EMPLOYEES AS CANDIDATES FOR PUBLIC OFFICE

Auburn University is a public institution and its employees are paid from public funds. The institution, therefore, cannot participate in partisan, political, controversial elections.

However, Auburn University recognizes the constitutional rights of its employees to assume the responsibilities of citizenship in governmental affairs. These rights include that of seeking public office in local, county, state and federal governments, except when such activity would pose a conflict of time or of interest with the employee's University obligations.

Thus, under these conditions, full-time employees of Auburn University may serve in elective, nominally remunerative local and county offices provided the responsibilities of such offices do not interfere with the proper performance of the duties of such employees to the institution. In such cases, it shall be the duty of the employee, before qualifying for such office, to receive the approval of Auburn University. In no case shall such approval carry with it any obligation of Auburn University to support any such candidate.

Any University employee wishing to qualify for full-time remunerative elective office, or for any elective office which would pose a conflict of time or of interest with the employee's University obligations, shall submit a resignation at the time the request for qualification as a candidate for election is presented. Such resignations shall be upon the standard forms and shall be processed in the same manner as all other resignations, and shall be effective as of the date submitted.

Such persons, so resigning, shall do so without guarantee by Auburn University that they may be re employed in the event they fail of election; or, if elected, that they may be re-employed while holding an elective office; or that they may be re-employed at the expiration of the term of office for which they have been elected. The general conditions outlined above also will apply to appointive offices.

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7. UNIVERSITY-LEGISLATIVE RELATIONSHIPS AND THE FACULTY MEMBER

Auburn University cooperates with all appropriate elements of state government and is often requested to supply information to legislative committees and sub-committees. Since University faculty may at times be involved in such activity, they should observe the following principles of institutional policy:

The University Administration should be informed in advance of a faculty member discussing with the Legislature any program development involving institutional commitment of funds or other resources.

Only the President or individuals designated by him or her are authorized by the Board of Trustees to interpret or describe official policy positions and decisions of the University before legislative committees and

sub-committees.

Faculty giving testimony, rendering opinions, or providing information to such legislative bodies should make clear that they are acting in their capacity as citizens and not, unless thus officially designated, as spokesmen for the University.

Since faculty are often requested to appear as authoritative witnesses in controversial issues involved with the public interest, they should also make clear that their testimony is that of individual citizens and not a statement of Auburn University policy or opinion.

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