

CONFLICT OF INTEREST AND CONFLICT OF COMMITMENT

Introduction

[Standard Practice Guide \(SPG\) 201.65-1 Conflicts of Interests and Conflicts of Commitment](#) requires University deans and directors to articulate and disseminate implementation policies that apply to faculty and/or staff within their departments and units. The Conflicts of Interest and Conflicts of Commitment implementation policy and procedures for the Office of University Audits are below. This policy and its procedures are applicable to all staff members including the Executive Director, audit managers, auditors, and clerical staff, whether permanent or temporary, full-time or part-time. The University expects all employees to be familiar with the contents of SPG 201.65-1 and with the applicable set of implementation procedures of their unit.

Note: In addition, the Executive Director must adhere to guidelines established in the [Policy for Executive Officers and Presidential Direct Reports on Conflict of Interest and Conflict of Commitment](#).

Identification of Potential Conflicts of Interest and Conflicts of Commitment

Potential conflicts of interest and conflicts of commitment are inevitable when University Audits personnel engage with individuals, groups, entities, and institutions outside of the University of Michigan. These potential conflicts are not necessarily problematic. The University allows and encourages its employees to engage in outside activities and relationships that enhance the University's mission. It is, nevertheless, important that personnel disclose any potential conflicts of interest or conflicts of commitment as soon as they arise. The Executive Director and audit managers will evaluate these potential conflicts and, if necessary, manage or eliminate them. Staff members should also disclose potential conflicts of interest and conflicts of commitment with individuals, groups, and units within the University community. SPG 201.65-1 states, "Staff members are to act with honesty, integrity, and in the best interest of the University when performing their duties, and to abide by the highest standards of research, educational, professional, and fiscal conduct."

Definitions

1. A potential "conflict of interest" arises when internal or external relationships appear to bias one's judgment in performing his/her University obligations or when audit personnel receive a material, financial, or other benefits based on the knowledge of confidential University information.

2. A potential “conflict of commitment” arises when a staff member engages in external activities or assumes external commitments that appear to compromise his/her ability to fulfill the responsibilities of his/her University position. Even when a staff member meets University obligations, the staff member may not engage in activities that compete with the University or that otherwise diminish or undermine the University’s mission. It is inappropriate for staff, in their University role and without prior approval, to divert opportunities for research, education, clinical/medical care, or financial support which otherwise might flow to the University to other entities/institutions.

Disclosure, Evaluation, and Management of Potential Conflicts of Interest and Conflicts of Commitment

Disclosure of Potential Conflicts

Audit managers, auditors, and clerical staff should update the [Annual Conflict of Interest and Conflict of Commitment Disclosure Form](#) and submit it to their direct supervisor at least once a year. They must promptly disclose potential conflicts of interest or conflicts of commitment as they arise, in writing, to the Executive Director. Auditors should also disclose potential conflicts to his/her assigned manager by updating the above form. In accordance with the President’s conflict policy, the Executive Director must disclose potential conflicts of interest and conflicts of commitment to the President and the Vice President and Secretary of the University.

Examples of potential conflicts of interest or commitment include, but are not limited to, the following activities:

- Performing an audit of a department/unit in which the auditor previously held a position.
- Performing work for other University departments or units for additional pay.
- Participating in decisions or deliberations where a family member (parent, sibling, spouse/partner, child, dependent relative) or personal associate is or could be affected financially.
- Accepting gifts, entertainment, or other items of substantial value from internal clients or external third parties that conduct business with the University.
- Devoting excessive time or creative energy to extracurricular activities as to compromise the amount or quality of work performed at the University.
- Assuming responsibility for an outside activity that diverts sufficient attention away from University responsibilities or creates a conflict of loyalty.

Evaluation and Management of Potential Conflicts

Upon disclosure of a potential conflict of interest or conflict of commitment, the appropriate management team (M-Team) member of University Audits will evaluate the extent of the potential conflict to determine whether it is necessary to manage or eliminate the conflict. The M-Team member may ask the employee to provide additional information or documentation if necessary.

In response to a disclosure of a potential conflict, the M-Team member, after consultation with interested parties, may determine that no action is necessary. In other cases, the M-Team member may decide that it is sufficient to document the disclosure and his/her determination that

no management is required. If the M-Team member determines that management of the potential conflict is necessary, he/she will develop a conflict management plan in consultation with the employee. That plan may include, but is not limited to, the following remedies:

- Disclosing the potential conflict to appropriate sources inside/outside the University.
- Modifying or limiting the employee's duties to minimize or eliminate the conflict.
- Reducing the employee's appointment to accommodate the outside interest/activity.
- Securing the employee's agreement to modify or suspend outside activity, use of University resources, or other activities that create the potential conflict.
- Prohibiting certain outside activity that is inconsistent with the employee's obligations to University Audits and the University.

Administration

Record-keeping and Issues of Confidentiality and Privacy

The Executive Director (or designate) will keep a record of action on disclosures made under this policy, in part to help develop a consistent practice of treating similar cases alike. M-Team members may determine that it is appropriate to maintain a record of disclosures in employees' personnel files.

The Executive Director (or designate) will make all reasonable efforts to preserve the privacy and confidentiality of personal information revealed as part of this process; to that end, the executive director will keep all records that include personal information about named individuals in a secure file accessible only to M-Team members. If other employees have a legitimate business reason to access the documentation, the executive director may authorize access to the file and provide either copies and/or information, as may be required for the stated business purpose. If the executive director provides copies of information in the files to a staff member, he/she must also ask that individual to maintain the same level of confidentiality as applicable to the original information or documents. Except where University record retention policies require a longer period, the documentation related to a disclosure will be purged three years after the potential conflict no longer exists.

In some circumstances, the University is required to disclose potential conflicts to parties within or outside the University. For example, if a conflict exists within the context of a federally sponsored project, the University is required both to disclose the existence of that conflict (without providing identifying information) to the federal government and to indicate whether it has managed the conflict. Additionally, the University may be legally required to disclose information in response to requests made under the Michigan Freedom of Information Act (FOIA). Should any other individual have a legitimate reason to access the confidential records, whether in the context of a federally sponsored project, a FOIA request, or otherwise, the executive director may authorize access to the file, provide copies, or provide oral or written summaries. Where possible, the individual to whom the executive director authorizes disclosure will be required to maintain at least the same level of confidentiality as applicable to the original information or documents.

Any staff member who becomes aware that a staff member or an M-Team member has provided or may have provided unwarranted access to conflict documentation or information, as defined in this policy, should inform the relevant superior for appropriate action.

Dispute Resolution

A staff member may dispute any decision made in response to the disclosure or non-disclosure of a potential conflict of interest or conflict of commitment. When a staff member disputes any action or decision related to a potential conflict of interest or commitment, the staff member should first ask that his or her immediate supervisor review the action or decision. If the employee remains unsatisfied after this initial review, the employee should initiate existing University policies and procedures for handling disputes. For more information refer to:

- [Mediation Services for Faculty and Staff](#)
- [Grievance Procedures and Dispute Resolution \(SPG 201.8\)](#)

Education and Training

An M-Team member will provide this policy to new staff members during their first week of employment. At that time, the executive director or audit manager will also discuss the policy with the new employee.

M-Team will circulate this policy annually to all staff members, including employees with an interim appointment. M-Team members may also wish to add additional options such as:

- Requiring an annual paper certification of having reviewed the policy.
- Recording the fact that M-Team provided the policy to the staff member.
- Requiring all staff members to complete on-line educational tutorial for overall policy. (Staff member should provide a record of successful completion of the tutorial to the executive director).

Violations

Failure to comply with SPG 201.65-1, its procedures, or this implementing policy may lead to disciplinary action, up to and including termination of appointment in accordance with applicable disciplinary procedures. Activities that may lead to disciplinary action include, but are not limited to, the following violations:

- Failure to fully disclose a potential conflict
- Failure to fully comply with a required conflict management plan
- Failure to maintain the confidentiality of conflict documentation and information
- Failure to complete any required training or education regarding the policy

Policy Review and Revision

The University Audits Quality Manager will annually review all actions taken under this policy to evaluate the need for policy revisions or increased education. The quality improvement manager will discuss proposed revisions with M-Team members. If M-Team members determine that proposed changes materially modify the policy, the M-Team members must adopt the proposal using the Policy and Procedure Update Process ([Procedure E-1](#)).

Governing Policies

This policy implements *SPG 201.65-1 Conflicts of Interest and Conflicts of Commitment*, incorporates it in its entirety and includes all elements required under that SPG. Implementation of SPG 201.65-1 requires compliance with other University policies and procedures, including all Regents' Bylaws and SPGs, as well as any relevant external rules of professional conduct and applicable law. Relevant policies, procedures, and rules include, but are not limited to, the following:

- The Institute of Internal Auditors [Code of Ethics](#)
- The Institute of Internal Auditors International Standard for the Professional Practice of Internal Auditing [1100 – Independence and Objectivity](#)
- [Regents' Bylaw 2.16](#) – Gifts to Regents and University Employees
- [Regents' Bylaw 5.13](#) – Governmental Activities (Regarding elected and appointed services)
- [Regents' Bylaw 5.14](#) – Leaves of Absence
- [SPG 201.23](#) – Appointment of Relatives or Others with Close Relationships
- [SPG 201.65-0](#) – Work Outside the University
- [SPG 201.85](#) – Special Stipends (Form G) (Regarding special stipends for work performed for other University units and payments of honoraria and travel expenses)
- [SPG 500.01](#) – Fiscal Responsibilities
- [SPG 601.03-2](#) – Ownership of Copyrighted Works Created at or in Affiliation with U-M
- [SPG 601.11](#) – Privacy and the Need to Monitor and Access Records

In the event of any inconsistencies between this policy and other University or external requirements, those other requirements will prevail. In interpreting this policy, the Executive Director will be attentive to preserve the principle of academic freedom of speech and thought. In addition, policy administrators (M-Team members) will make every reasonable effort to preserve confidentiality and protect the privacy of all parties in the course of investigating and managing a potential conflict of interest or commitment.

Below is the letter of the Office of the Provost and Conflicts of Interest and Conflicts of Commitment Policy Review Group to the University Audits on the implementation of the above policy.



THE UNIVERSITY OF MICHIGAN
OFFICE OF THE PROVOST AND
EXECUTIVE VICE PRESIDENT
FOR ACADEMIC AFFAIRS

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MEMORANDUM

TO: Carol Senneff
Executive Director of University Audits

FROM: Christina Whitman
Professor of Law and Women's Studies
Special Counsel to the Provost

Handwritten signature of Christina Whitman in cursive.

DATE: May 2, 2007

SUBJECT: Conflicts of Interest and Conflicts of Commitment Unit Implementation Policies

The Provost's Office and Conflicts of Interest and Conflicts of Commitment Policy Review Group (PRG) has reviewed the Office of University Audits' conflicts of interest and conflict of commitment implementation policy.

We find that your unit implementation policy meets all the requirements set forth in Standard Practice Guide 201.65-1, and we will therefore submit it to the President with our recommendation that it be approved.

We thank you for your excellent and careful work. We plan to make your policy publicly available on the Provost's website once it is finally approved. We expect that other units will benefit from seeing many of the choices you have made. We particularly liked the policy's attention to providing excellent unit-specific examples of potential conflicts of interest and conflicts of commitment. Your policy is thorough and helpful.

We do have a few suggestions, none of which require immediate action. As you can imagine, during our review process, we have learned a great deal from the work in the units.

A slight, non-substantive refinement that you might consider would be to provide guidance on the length of time that records generated by your conflicts policy will be kept. For example, you might decide to keep records documenting initial disclosures and management plans for a longer period of time, but choose to return or destroy ancillary records a certain number of years (perhaps three) after the potential conflict has been eliminated or otherwise ceases to exist.

Carol Senneff
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Some units have found it helpful to specify what a substantial gift is in dollar figures (e.g., \$25, \$50, and \$100), though not all have done so. We also recommend that the section about gifts specify that, irrespective of a gift's value, it is *always* a conflict of interest for a staff member to accept a gift where the external person or organization intends to create a *quid pro quo* arrangement with the staff member. Thus, whatever the value of a gift, it is never appropriate to receive a gift that is given with the expectation of receiving some favor or benefit in return. All of this is designed to provide helpful guidance to staff.

If you do choose to make any of these modifications, please submit the modified policy to us for our records, but we see no need for further review by the Policy Review Group.

We will submit your policy to the President with our recommendation. After President Coleman has reviewed your policy, she will communicate her decision to you.

Approved unit implementation policies will be placed on the website, but do not rely on this venue alone for informing your faculty and staff about your unit policy.

Based on the PRG's review of numerous policies (with more to come), the Review Group has begun to identify policy language that, like yours, reflects careful thinking and a clear articulation of matters that are important for faculty and staff. We speculate, therefore, that sometime during the next year or two, the Executive Officers may decide to disseminate information in the hope or expectation that units will incorporate elements of this "best practice" language into their policies. The ultimate goal, of course, is to ensure that faculty and staff understand the complexity and importance of disclosing and managing potential conflicts of interest and conflicts of commitment. We hope to improve our ability to do that and to learn from each other as the process continues.

We thank you for your considerable effort in helping to maintain and strengthen the University of Michigan's commitment to integrity.

CBW/dn
