

**Office of the Provost and
Executive Vice President for Academic Affairs**

**Conflicts of Interest (COI) and Conflicts of Commitment (COC)
Unit Implementation Policy for Staff**
University of Michigan

Introduction

The University of Michigan Standard SPG 201.65-1 *Conflicts of Interest and Conflicts of Commitment* requires the deans of the schools or colleges and the directors of administrative units to articulate and disseminate implementation policies that apply to faculty and/or staff within those units.

This policy applies to staff¹ in all the units within the purview of the Office of the Provost and Executive Vice President for Academic Affairs--with the exception of any unit that has developed a separate unit implementation policy for staff members in that unit. A unit may prefer to develop a separate policy, for example, because of the unique nature of potential conflicts of interest and conflicts of commitment in that unit².

¹ This policy also applies to faculty members who hold administrative appointments in the Office of the Provost or in units reporting to the Office of the Provost if, in carrying out their administrative responsibilities, situations arise that may constitute a potential conflict of interest or conflict of commitment. With respect to their obligations associated with their faculty appointment(s), the appropriate school, college, or unit COI/COC unit implementation policy would apply.

² For any office to develop a separate unit implementation policy in place of this document, the head of the unit must follow the steps described below:

- The director of the unit provides a rationale to the Provost and Executive Vice President Affairs for why the unit should have a separate COI/COC unit implementation policy.
- After the Provost has approved the director's request to develop a separate policy, the director submits a draft policy to the Provost for review.
- After the Provost has endorsed the policy, she submits it to the COI/COC Policy Review Group (PRG) for review.
- After the Policy Review Group has endorsed the policy, the Chair of the PRG submits the policy to the President for approval.

A current version of any separate unit implementation policy that applies to staff members in units within the purview of the Provost and Executive Vice President for Academic Affairs must be on file in the Office of the Provost.

Applicability

This policy and its procedures apply to all full-time staff, whether permanent or temporary, and to all permanent part-time staff in the units to which this policy applies. The University expects all staff to be familiar with the contents of SPG 201.65-1, and also with each applicable unit implementation policy (or policies if the staff member holds an appointment in two or more offices or units).

A. Statement of Principles

The Policy section of SPG 201.65-1 outlines a set of key principles relevant to conflicts of interest and conflicts of commitment, including the principles stated below.

All 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. Outside activities should not interfere with an individual's University obligations. Staff must not use their official University positions or influence to further gain or advancement for themselves, parents, siblings, spouse or partner, children, dependent relatives, or other personal associates, at the expense of the University.

In accordance with its mission, however, the UM allows and encourages staff to engage in outside activities and relationships that enhance the mission of the University. As a result, potential conflicts of interest and commitment are inevitable. However, these potential conflicts are not necessarily problematic. Rather, the key point is that faculty and staff must disclose these potential conflicts of interest so that the appropriate person(s) in the unit can evaluate the potential COI or COC and, if necessary, take steps to address the potential conflict.

Standard Practice Guide 201.65-1 does not stand alone, but works in conjunction with other policies. For this reason, academic and administrative units must also consider particular rules of conduct within the University and rules that govern outside activities. These include:

- Regents' Bylaw 5.13, related to governmental elective/appointed service <http://www.umich.edu/%7Eregents/bylaws/bylaws05b.html#4>;
- SPG 201.12, related to misconduct and discipline;
- SPG 201.23, related to hiring of relatives or those with a close personal relationship; and
- SPG 201.85, related to work performed for other University units.

Definitions

Broadly defined, a *potential conflict of interest* encompasses external ties that may or may appear to improperly bias a staff member's judgment in performing his or her University job responsibilities³.

A *potential conflict of commitment*, broadly defined, encompasses situations in which a staff member's external relationships or activities may or may appear to interfere or compete with the University's mission, or with the staff member's ability or willingness to perform his or her job responsibilities.

B. Disclosing, Evaluating, and Managing Potential Conflicts of Interest and Conflicts of Commitment

1. Disclosing potential conflicts of interest and conflicts of commitment

Whenever a potential conflict of interest or conflict of commitment exists for a staff member, he or she must promptly disclose it, in writing, to the dean or director of the unit (or his or her designate), hereafter referred to as the *COI/COC manager*. (SPG 201.65-1, Section III.A.3.)

Examples of potential conflicts include (but are not limited to):

- Performing work for other University departments or units for additional pay;
- Participating in decisions or deliberations where your own personal financial interests are or could be affected⁴;
- Participating in decisions or deliberations where a family member is or could be affected, financially or otherwise (Note: As stated in SPG 201.65-1, family members include parents, siblings, a spouse or partner, children, and dependent relatives.);
- Performing activities for non-University entities for pay;
- Accepting gifts, entertainment, or other items of value from vendors or other third parties that do or have business with the University (also see below);
- Accepting an incentive or benefit to gain access to a staff member's supervisor; and

³ The more detailed definitions for a *potential conflict of interest* and *potential conflict of commitment* that appear in Section II.A of SPG 201.65-1 also apply to the procedures described in this document.

⁴ This example is distinct from participating in decisions or deliberations about matters that affect large groups of UM employees (e.g., in the areas of policy and budgets), which is typically not a potential COI.

Gifts

A potential conflict exists whenever a staff member receives a gift from an individual, organization, or company where the gift could bias the staff member's current or future professional judgment or decision-making. General University policy prohibits employees from accepting any gift of substantial value from vendors or from students (Regents' Bylaw 2.16).

However, there are instances in which gift giving is an act of collegiality or a cultural practice. For example, a faculty member gives away copies of a book he or she has authored, or members of an international delegation exchange gifts. Such gifts are a part of University business.

Under any other circumstances, however, if any staff member to whom this policy applies receives a gift that exceeds \$25 in value to the staff member or to his or her spouse, partner, or dependent child, the staff member must report the gift to the COI/COC manager. This does not include gifts from a spouse, partner, or family member (i.e., parent, sibling, child, or dependent relative) or from a spouse or partner's family member.

At a minimum, the COI/COC manager should keep a written record of the disclosure of such gifts.

2. Evaluating disclosures of potential conflicts of interest or conflicts of commitment

The *COI/COC manager* will evaluate all disclosed potential conflicts of interest or conflicts of commitment. The *COI/COC manager* may require the staff member to provide additional information or documentation to help him or her evaluate the potential conflict of interest or conflict of commitment.

As needed, the *COI/COC manager* will consult with appropriate central administrative offices (e.g., the Office of Human Resources and Affirmative Action, the Office of the Vice President for Research, and the Office of the Vice President and General Counsel). (See also Section B.4, below.) As needed, the *COI/COC manager* will also consult with his or her supervisor.

3. Developing plans to manage potential conflicts of interest and conflicts of commitment

When the *COI/COC manager* has determined that a potential conflict of interest or conflict of commitment exists that the manager must take steps to address, he or she must develop, in consultation with the employee and the employee's supervisor, or to both of these individuals jointly, a recommended plan for addressing the potential COI/COC.

The director or his or her designate has authority for approving plans to address potential conflicts of interest or conflicts of commitment. If the director delegates this authority,

he or she typically delegates it to the *COI/COC manager*, to the employee's supervisor, or to both of these individuals jointly.

After a plan has been approved, the employee's supervisor will give a copy of the plan to the employee, and will discuss any related ambiguities or issues that arise.

4. Involving other University individuals or offices, as required

There are two areas in the University—procurement and research—that bear a high level of responsibility for ensuring that the University adheres to various requirements. Although a *COI/COC manager* may also consult with other offices, these two offices deserve special mention below.

Procurement (Purchasing and Business Services)

In addition to the aforementioned steps, when a potential conflict arises from the purchase of goods or services the *COI/COC manager* must also disclose the potential conflict to the staff member who is responsible for handling the unit's procurement transactions. The *manager* must also consult with the appropriate staff member in the University's procurement area. If the *COI/COC manager* determines that a potential conflict exists that must be addressed, he or she will consult with the aforementioned individuals while developing a plan to address the conflict.

Research

When a potential COI or COC arises from a staff member's work on a research project, the *COI/COC manager* must inform the head of the research project. If the *COI/COC manager* determines that a conflict exists that must be addressed, he or she must ensure, in consultation with the head of the research project, that the conflict management plan does not conflict with any requirements related to the research or to research funding.

C. Administering the Policy

1. Record-Keeping and Issues of Confidentiality and Privacy

Administrators of this policy will make every reasonable effort to preserve confidentiality and protect the privacy of all parties at all times, including while investigating a potential COI or COC and, if applicable, while developing a plan to address the conflict. (See Regents' Bylaw 14.07 *Privacy and Access to Information* and SPG 201.46 *Personnel Records – Collection, Retention and Release*.)

When a staff member gives documents about his or her personal finances or personal associations to the *COI/COC manager*, the *manager* must ensure that the documents are placed in a secure file. All documents related to the staff member's COI/COC disclosure and to all follow-up actions will be located in the secure file. These documents may simply identify the staff member's disclosure and note, where applicable, that no further

action was required. In addition to the *COI/COC manager*, only the head of the unit and the staff member's unit supervisor shall have designated access to this file. For any other persons who seek access to information in the file, only the COI/COC manager and the head of the unit shall have the authority to approve such access, as described below.

In some circumstances, the University must disclose potential COI/COCs to people within or outside the University. For example, if a potential conflict exists within the context of a federally sponsored project, the University *must* disclose the existence of that potential conflict to the federal government *and* must indicate whether it has taken steps to address the potential conflict.

Also, the Michigan Freedom of Information Act (FOIA) may legally require the University to disclose information in response to requests made under FOIA (<http://www.umich.edu/~urel/foia.html>).

In addition to the people and circumstances listed above, if any other individual has a legitimate educational or business reason to access the confidential records, the *COI/COC manager* or the unit head may authorize access to the file, provide copies, or provide oral or written summaries of the information in the file--only to the extent that the stated business purpose requires. Where possible, the individual who requests and then receives information about a COI/COC disclosure must maintain at least the same level of confidentiality as this policy requires the unit to maintain for the original material in the files.

Purging Files

The *COI/COC manager* will ensure that the unit purges documents in the staff member's file three years after the potential conflict no longer exists, except where University record retention policies require the unit to retain the records for a longer period (e.g., as specified in SPG 201.46).

Inappropriate Access to Files

Within the scope of this policy, any staff member who becomes aware of a *COI/COC manager* or unit head who has provided or who may have provided someone with inappropriate access to COI/COC documents or information should inform the Provost and Executive Vice President for Academic Affairs (or his or her designate). To follow up, the Provost will investigate the allegation and, where appropriate, take personnel action.

2. Resolving Disputes

If a staff member wants to dispute any action or decision related to a potential COI or COC, the staff member should first ask his or her supervisor to review the action or decision, or to arrange for another person to review the action or decision.

After the aforementioned review, if the staff member is unsatisfied with the resulting action or decision, he or she may use existing University policies and procedures for handling disputes (where available), including collective bargaining agreement grievance procedures, where applicable.

3. Conducting Education and Training

When any unit to which this policy applies hires a staff member who is new to the University or new to the unit, the unit must provide the staff member with a copy of this implementation policy. The *COI/COC manager* will also require each new staff member to complete the appropriate on-line tutorial about conflicts of interest and conflicts of commitment within 60 days of the employee's first day of employment in the unit.

4. Violations

If a staff member violates SPG 201.65-1 or the *COI/COC* unit implementation policy described in this document, the *COI/COC manager*, the staff member's supervisor, or the unit head may take disciplinary action.

For a first violation, the employee's supervisor will evaluate the violation and take appropriate action, if needed; he or she will act in accordance with existing University policies and procedures, and may consult with the unit's Human Resources representative.

The *manager*, supervisor, or unit head will create a written record of the review and of any actions taken subsequently. He or she will ensure that this written record is placed in the aforementioned secure files. If appropriate, the *COI/COC manager*, supervisor, or unit head will send a copy of the written record to the Office of Human Resources and Affirmative Action, to be placed in the employee's personnel file as provided under SPG 201.46.

5. Policy Review and Revision

To ensure a consistent approach in the unit's handling of potential *COI/COCs*, the *COI/COC manager* will regularly review the unit's files about disclosures of potential *COI/COCs* and any actions taken subsequently. Similarly, the unit head will regularly

review how the unit is handling potential COI/COC matters and will share with the Provost any issues that emerge.

As mentioned previously, some units within the purview of the Provost's Office may decide, with the Provost's approval, to develop a separate unit implementation policy. Under these circumstances, if the unit head wants to revise the unit implementation policy in ways that would change it in substantial ways, he or she should follow the procedures used to adopt the original policy (<http://www.umich.edu/%7Ehrra/procedures/spg201-65-1.htm>).

As a first step, the head of the unit head should submit the draft of any substantially revised policy to the Provost and Executive Vice President for Academic Affairs for review. As mentioned previously, a current version of any such unit implementation policy must be on file in the Office of the Provost.

D. Other Governing Policies

This policy implements SPG 201.65-1, *Conflicts of Interest and Conflicts of Commitment*, incorporates SPG 201.65-1 in its entirety, and includes all elements required under that SPG. All UM staff members, including those who hold appointments in the administrative units to which this policy applies, must also comply with other University policies and procedures, including all Regents' Bylaws and SPGs, as well as with any relevant external rules of professional conduct and applicable law. Relevant policies, procedures, rules, and law include (but are not limited to) those described below:

- Regents' Bylaw 2.16, regarding gifts to University employees
<http://www.umich.edu/%7Eregents/bylaws/bylaws02.html#16>;
- Regents' Bylaw 5.13, regarding governmental elected or appointed service
<http://www.umich.edu/%7Eregents/bylaws/bylaws05b.html#4>;
- Regents' Bylaw 5.14, regarding leaves of absence
<http://www.umich.edu/%7Eregents/bylaws/bylaws05b.html#5>;
- SPG 201.12, regarding misconduct and discipline;
- SPG 201.23, regarding appointment of individuals with close personal or external business relationships;
- SPG 201.65, regarding employment outside the University;
- SPG 201.85, regarding special stipends for work performed for other University units, the payment of honoraria, and the payment of travel expenses;
- SPG 500.01, 601.03-2, and 601.11, in particular to the extent that they address appropriate use of University resources, such as the libraries, office space, computers, secretarial and administrative support staff, and supplies;
- Office of Vice President for Research (OVPR) Policy on Conflict of Interest in Sponsored Research and Technology Transfer Agreements
http://www.research.umich.edu/policies/um/conflict_ovpr_drda_tmo.html;
- Michigan Compiled Laws § 15.321 et seq., regarding contracts of public employees with their employers; and
- Where applicable, the current collective bargaining agreement for the staff member.