

Staff Conflicts of Interest and Conflicts of Commitment

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COLLEGE OF LITERATURE, SCIENCE, AND THE ARTS IMPLEMENTATION OF POLICY ON STAFF CONFLICTS OF INTEREST AND CONFLICTS OF COMMITMENT Updated: August 25, 2008

Introduction

SPG 201.65-1 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. The implementation policy and procedures for staff in the College of Literature, Science and the Arts are provided below. This policy and its procedures apply to all full-time staff, whether permanent or temporary, and to all permanent part-time staff in the unit. The University expects all staff to be familiar with the contents of SPG 201.65-1 and with the applicable set of unit implementation procedures.

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 University of Michigan 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 can occur, and these potential conflicts are not necessarily problematic. Rather, the essential point is that faculty and staff must disclose these potential conflicts of interest so that these conflicts can be evaluated and, if necessary, managed.

When implementing SPG 201.65-1, academic and administrative units must also consider existing rules of conduct applicable to the staff of the College of Literature, Science and the Arts, including rules that relate to activities within the University and rules that govern outside activities. The present document is intended to clarify and, where necessary, supplement existing LSA and University policy. LSA does not intend to implement a policy that is more restrictive than that required by the existing University policies, procedures, and rules. These include:

- Regents' Bylaw 5.13, related to governmental elective/appointed service;
- 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.

The specific definitions for a ***potential conflict of interest*** and ***potential conflict of commitment*** in Section II.A of SPG 201.65-1 also apply to the procedures described below. 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 responsibilities or when an employee uses state resources to influence a political campaign. 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 or 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 departmental Chief Administrator and the Chair or Director of his or her department or program. (SPG 201.65-1, Section III.A.3.) Email will suffice. The Chief Administrator, Chair or Director may seek advice from the COI/COC Manager in the LSA Human Resources Office (Labor Relations Representative). The Chief Administrator, Chair, or Director reports at the end of each year on all COI/COC issues and the department/program procedures for managing them to the Labor Relations Representative (LSA HR).

Disclosure need not be made where there is no violation of the general principles outlined above but disclosure should be made whenever there is any question whether the incident falls within the generally permitted situations described in this document.

Potential conflicts of interest/conflicts of commitment may occur in a number of situations including those outlined in the examples below. LSA's general approach to managing these examples is also included. This list is not exhaustive.

1. Time

- Full-time staff members are expected to spend a majority of their working time on their primary professional commitments to the University. Outside consulting obligations, individually or collectively, may not conflict with primary commitments to the University, may not be carried out on University paid time, and must be disclosed to the College.
- Consistent with conflict of interest and commitment principles, staff with full-time appointments at the University should not use (or permit others to use) their work in ways that compete with the University's business, or its educational programs or activities – unless prior written permission is obtained from the appropriate dean, unit director, or executive officer, or their designee(s).
- Full-time staff members must disclose and receive prior approval from their current supervisor for work performed for other University departments or units for additional pay, and may not perform work for another University unit that takes them away from work that would be performed in the primary employing unit.
- Staff members may not personally receive stipends, honorariums, or external expense reimbursements for speaking on behalf of the University or when in a University role when traveling and speaking on University time and/or expense.
- Start-up ventures in which the staff member has an outside interest must be disclosed but are regulated by OVPR policy:
(<http://www.research.umich.edu/policies/um/coi/>).

2. Relationships

- Close personal relationships that could affect the outcome of hiring or evaluation decisions must be disclosed to the Chief Administrator and Chair/Director and case-specific written policies for managing any relationships involving supervision or evaluation must be developed by the department/program (SPG 201.23).
- A staff member may not assign or ask students or staff to contribute services or money to institutions or people external to the University with whom the staff member has a financial interest. A supervisor may not use the services of a supervised employee during University employment time to advance the supervisor's personal or externally paid professional activities.
- The University Staff Student Relationship policy must be adhered to in all circumstances. Disclosure to the Chief Administrator and Chair/Director of any relationships covered by the policy is required (SGP 601.22).

3. Resources

- University resources are normally to be used for university business. These resources include University equipment including copying and fax machines, office and computer supplies, and electronic mail. University policy allows for limited use of electronic resources (computers, email, and internet connections) for personal business that does not conflict with the primary business use. Employees shall not use resources of the University to either personally

profit or to avoid personal expenses. Use of office or laboratory space for ventures in which the staff member has an outside interest must be disclosed but is regulated by OVPR policy (<http://www.research.umich.edu/policies/um/coi/>).

- A staff member may not accept reimbursement that amounts to a gift valued at \$25 or more from people or institutions that contract with the University where the staff member participates in decisions concerning that contract.
- The University may have a stake in patents and copyrights issued or acquired as the result of or in connection with administration, research, and other educational activities conducted by members of the University faculty/staff and supported directly or indirectly (e.g. through the use of University resources or facilities) by funds administered by the University. Procedures for managing this are available in OVPR (<http://www.research.umich.edu/policies/um/coi/>).
- A staff member may not direct business to anyone with whom he or she has a close personal relationship or use University resources to promote his or her own personal or outside business interests (e.g. time, computer supplies, facilities, etc).
- A staff member may not participate in decisions or deliberations where his or her own personal financial interests are or could be affected.
- A staff member may not participate 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.);

4. Gifts

- A potential conflict exists when a vendor, current or potential, gives a gift to a staff member. In line with general university policy and IRS regulations an employee may not accept any gift of \$25 or more from a vendor or from a student (Regents' Bylaw 2.16).
- A staff member may not accept a gift of substantial value (including gifts of service) from anyone over whom he or she has authority.
- Staff members may not provide gifts to the University with the expectation that they will then be given the authority to control the dispersal of these gifts.

5. Political Endorsement or Outside Affiliation

- There are circumstances in which a staff member's expertise is relevant to expression of a public opinion. In these cases a staff member may indicate his or her affiliation with the university in written correspondence to public entities as long as the correspondence includes a statement indicating that they are not speaking on behalf of the University but only as an individual.
- Staff members obviously have the full right to political activity outside of work hours but they may not use University resources to further these activities.
- A staff member may not use University resources (including electronic mail accounts) to support or oppose a political candidate or the qualification, defeat or passage of a ballot initiative. This is a violation of State Law for which there are

individual fines and penalties (Michigan Campaign Finance Act section, MCL 169.257). University guidelines on this issue are available at [The Office of Communications Website](#).

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

Upon disclosure of a potential conflict of interest or commitment, the Chief Administrator and Chair or Director (in consultation as needed with the COI/COC Manager in the LSA HR Office (Labor Relations Representative)), shall evaluate all disclosed potential conflicts of interest or conflicts of commitment. The purpose of this evaluation is to determine whether it is necessary to manage or eliminate the potential conflict. The Chief Administrator and the Chair/Director may require the staff member to provide additional information or documentation that may be relevant to evaluating the potential conflict of interest or conflict of commitment.

As needed, the Chief Administrator, Chair or Director will consult with the COI/COC Manager in LSA HR (Labor Relations Representative) as well as appropriate central administrative offices (e.g., Office of the Provost and Executive Vice President for Academic Affairs, Office of Human Resources and Affirmative Action, Office of the Vice President for Research, Office of the Vice President and General Counsel). (See also Section B.4, below.) As needed, the Dean may also be consulted.

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

When the Chief Administrator and Chair/Director have determined that a potential conflict of interest or conflict of commitment exists that must be managed or eliminated, they must develop, in consultation with the employee, a recommended plan for managing the potential conflict. This plan will then be approved by the COI/COC Manager in LSA HR (Labor Relations Representative). The Chief Administrator will provide the employee with a copy of the approved conflict management plan and will discuss any related ambiguities or issues that arise.

Management options include, but are not limited to:

- A determination that no action is necessary.
- Documenting the disclosure and Chief Administrator and Chair/Director's evaluation and determination that no further management is required.
- Disclosing the potential conflict to appropriate sources inside and outside the University;
- Modifying or limiting the staff member's duties to minimize or eliminate the conflict;
- Securing the staff member's agreement to modify or suspend outside activity, use of University resources, or other activities that create the potential conflict; and
- Prohibiting certain outside activity as inconsistent with the staff member's obligations to the University.

4. Involving other University individuals or offices as required.

In some circumstances, evaluation of the potential conflict will require consultation with central administration offices. For example, consultation is necessary in the following circumstances:

- Where the disclosure involves sponsored research or technology transfer, with the Office of the Vice President for Research (<http://www.research.umich.edu/policies/um/coi/>)).
- Where there may be a conflict between two academic units, with the Provost's Office.
- Where legal obligations or potential liability may be involved, with the General Counsel's Office.
- Where the disclosure involves a purchase of goods or services, with Purchasing.

Purchasing

When a potential conflict involves a purchase of goods or services, the Chief Administrator or Chair/Director must disclose the conflict to the Dean's Office as well as the appropriate staff person in the University's Office of Purchasing Services, and also to the unit staff member responsible for handling unit purchases. If the Chief Administrator or Chair/Director determines that a conflict exists that must be managed or eliminated, he or she will consult with these individuals in developing a plan to manage the conflict.

Research

When a potential conflict involves work performed for a research project, the Chief Administrator or Chair/Director must inform the head of the research project. If the Chief Administrator or Chair/Director determines that a conflict exists that must be managed or eliminated, it is his or her responsibility to ensure, in consultation with the head of the research project, that the conflict management plan does not conflict with requirements related to the research or to research funding.

C. Administering the Policy

1. Record Keeping and Issues of Confidentiality and Privacy

The Dean's Office will keep records of action on disclosures made to the Dean's Office under this policy, in part to develop a consistent practice in the treatment of like cases. Chief Administrators and Chairs/Directors will also keep records of disclosures and related actions at the department/program level. The record may be as simple as identifying the disclosure and including a notation on the disclosure description to the effect that no further action was required. Appropriate records may also be maintained in the individual staff member's personnel file as appropriate.

When personal financial or associational documents are provided to the COI/COC Manager in LSA HR (Labor Relations Representative), Chief Administrator, Chair, or Director, the documents shall be placed in a secure file accessible only to these individuals or their authorized designees.

Records documenting disclosures and management plans related to COI/COC policy should be kept for seven years after the potential conflict has been eliminated or otherwise ceases to exist.

In some circumstances, the University is required to disclose potential conflicts to people 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 and how it has managed that conflict. Also, the University may be legally required to disclose information in response to requests made under the Michigan Freedom of Information Act (FOIA), <http://umich.edu/~urel/foia.html>. 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 appropriate Chief Administrator, Chair, Director, Associate Dean or the Dean may authorize access to the file, provide copies, or provide oral or written summaries. Where possible, the individual to whom disclosure has been authorized will be required to maintain at least the same level of confidentiality as applicable to the original information or documents.

Administrators of this policy will make every reasonable effort to preserve confidentiality and protect the privacy of all parties in the course of investigating a potential conflict of interest or commitment and, as applicable, in developing a plan to manage the conflict. (See Regents' Bylaw 14.07 *Privacy and Access to Information* and SPG 201.46 *Personnel Records – Collection, Retention and Release*.)

2. Resolving Disputes

When a staff member disputes any action or decision related to a potential conflict of interest or conflict of commitment, the staff member should first ask that the action or decision be reviewed by his or her supervisor.

If, following the above review, the staff member remains unsatisfied with the action or decision, the staff member may follow existing University policies and procedures for handling disputes, when available.

3. Conducting Education and Training

LSA will develop a website that provides the full text of the LSA Implementation Policy on Staff Conflicts of Interest and Conflicts of Commitment along with links to relevant University policies statements. The site will also provide examples of the resolution of potential COI/COC issues and a link to Frequently Asked Questions, and other relevant sites. The policy and website will be referenced in all offer letters. Discussion and instruction on management of the policy will be included in new Chief Administrator training. Training will also be provided to departmental administrators on a regular basis.

F. Violations

Any failure to comply with SPG 201.65-1, its procedures, or this implementing policy may lead to disciplinary action in accordance with applicable disciplinary procedures. Possible violations that may lead to disciplinary action include, but are not

limited to, the following: failure to disclose a potential conflict; failure to comply with a required conflict management plan; failure to maintain the confidentiality of conflict documentation and information; and failure to complete any required training or education regarding the policy. In addition, employees covered by collective bargaining agreements shall be subject to the provisions of this policy to the extent that they do not conflict with the relevant collective bargaining agreement.

In the first instance, the employee's supervisor shall evaluate the violation and take appropriate action, if needed, all in accordance with existing University policies and procedures. Consultation with the employee's Human Resources representative may be appropriate. The outcome of the supervisor's review and any actions taken shall be documented and included within the secure file maintained by the COI/COC Manager in LSA HR (Labor Relations Representative). If appropriate, all relevant documentation may also be included within the employee's personnel file maintained as provided under SPG 201.46.

G. Policy Review and Revision

The COI/COC Manager in LSA HR (Labor Relations Representative) shall regularly review with the Dean all potential conflict disclosures and actions taken to ensure a consistent approach to potential conflicts within LSA. The Dean shall similarly regularly consult and review potential conflict management issues with the Office of the Provost. If the Dean, in consultation with the College Executive Committee, determines that any of the changes he or she would like to adopt will materially change the policy, the Dean will follow the procedures used to adopt the original policy. In particular, the Dean will submit any materially revised policy to the Office of the Provost and Executive Vice President for Academic Affairs for further review and approval and then to the President's Office for formal adoption. A current version of LSA's policy should be on file with the Provost's Office at all times.

H. 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. Implementation of SPG 201.65-1 within LSA requires compliance 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) the following:

- Regents' Bylaw [2.16](#), regarding gifts to University employees
- Regents' Bylaw [5.12](#), regarding outside employment of University faculty
- Regents' Bylaw [5.13](#), regarding governmental elected or appointed service
- Regents' Bylaw [5.14](#), regarding leaves of absence
- 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 copyright and other 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)
(<http://www.research.umich.edu/policies/um/coi/>)
- Michigan Compiled Laws § 15.321 et seq., regarding contracts of public employees with their employers

In the event of any inconsistency between this policy and other University or external requirements, those other requirements will prevail. In interpreting this policy the Dean and the COI/COC Manager in LSA HR (Labor Relations Representative) should be attentive to preserving the principle of academic freedom of speech and thought. In addition, policy administrators 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.